

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF SCOTCH &
SODA RETAIL CANADA INC. IN THE CITY OF TORONTO, IN THE PROVINCE OF
ONTARIO**

MOTION RECORD

May 11, 2023

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TO: SERVICE LIST

Estate/Court File No.: 31-2941767

Estate/Court File No.: 31-2941764

**ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF SCOTCH
AND SODA RETAIL CANADA INC. IN THE CITY OF TORONTO, IN THE PROVINCE OF
ONTARIO**

And

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF SCOTCH
AND SODA CANADA INC. IN THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

**SERVICE LIST
(As of May 11, 2023)**

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AND TO:	<p>KSV RESTRUCTURING INC. 220 Bay Street Suite 1300 Toronto, ON M5J 2W4</p> <p>Bobby Kofman Tel: 416.932.6228 bkofman@ksvadvisory.com</p> <p>Meg Ostling Tel: 416.932.6022 mostling@ksvadvisory.com</p> <p><i>Proposal Trustee</i></p>
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AND TO:	<p>ING BANK N.V. Bijlmerplein 888, 1102 MG Amsterdam, The Netherlands</p>

AND TO:	<p>HALTON HILLS SHOPPING CENTRE PARTNERSHIP</p> <p>225 West Washington Street, Indianapolis, IN 46204-3438</p> <p>c/o Simon Property Group – Premium Outlets 60 Columbia Road, Building B, 3rd Floor Morristown, NJ 07960</p> <p>hlittle@simon.com</p> <p><i>Landlord of Store Located at Toronto Premium Outlets, Halton Hills</i></p>
AND TO:	<p>CANADA REVENUE AGENCY 1 Front Street West Toronto, Ontario M5J 2X6</p> <p>Pat Confalone Tel: 416.954.6514 pat.confalone@cra-arc.gc.ca</p>
AND TO:	<p>HER MAJESTY IN RIGHT OF ONTARIO REPRESENTED BY THE MINISTER OF FINANCE – INSOLVENCY UNIT Ontario Ministry of Finance - Legal Services Branch 33 King Street West, 6th Floor Oshawa, Ontario L1H 8H5</p> <p>Leslie Crawford leslie.crawford@ontario.ca</p> <p>General Enquiries insolvency.unit@ontario.ca</p>

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**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF SCOTCH &
SODA RETAIL CANADA INC. IN THE CITY OF TORONTO, IN THE PROVINCE OF
ONTARIO**

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TAB 1

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
SCOTCH & SODA RETAIL CANADA INC.
IN THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

NOTICE OF MOTION
(Motion for Procedural Consolidation, Extension and Liquidation Sale Approval Order)

Scotch & Soda Retail Canada Inc. (“Retail”) will make a motion before Honourable Justice Steele of the Ontario Superior Court of Justice (Commercial List) on Tuesday, May 16, 2022, at 11:00 a.m., or as soon after that time as the motion can be heard, via Zoom videoconference.

PROPOSED METHOD OF HEARING: The Motion is to be heard orally via videoconference.

THE MOTION IS FOR:

1. An order (the “**Procedural Consolidation Order**”) substantially in the form attached at Tab 2 of the Motion Record, among other things, procedurally consolidating the proceeding commenced by Retail by filing a Notice of Intention to Make a Proposal (an “**NOI**”) pursuant to the *Bankruptcy and Insolvency Act* (the “**BIA**”) on May 8, 2023 (Estate No. 31-2941767) and the proceeding commenced by Scotch & Soda Canada Inc. (“**Wholesale**”, together with Retail, the “**Companies**”) by filing an NOI pursuant to the BIA on May 8, 2023 (Estate No. 31-2941764) (each individually, an “**NOI Proceeding**”) into one proceeding under Estate No. 31-2941767 (the “**Consolidated Proceeding**”); and
2. An order (the “**Extension and Liquidation Sale Approval Order**”) substantially in the form attached at Tab 3 of the Motion Record, among other things,

- (i) extending the time for the Companies to file proposals pursuant to the BIA to July 22, 2023 (being 45 days from its current expiry of June 8, 2023);
 - (ii) approving the Administration Charge and Director's Charge (each as defined below);
 - (iii) approving the consulting agreement between the Companies and Tiger Asset Solutions Canada, ULC (the "**Consultant**") dated as of May 11, 2023 (as may be amended and restated in accordance with the terms thereof, the "**Consulting Agreement**") and the transactions contemplated thereby;
 - (iv) approving the proposed sale guidelines (the "**Sale Guidelines**") for the orderly liquidation of the Merchandise (as defined below); and
 - (v) approving relief in connection with the *Wage Earner Protection Program Act* ("**WEPPA**") for any employees whose employment with the Companies may be terminated as part of the NOI Proceedings;
3. such further and other relief as this Honourable Court may deem just.
 4. Capitalized terms not defined in this notice of motion have the meaning given to them in the Affidavit of Filip Tufvesson, sworn May 11, 2023.

THE GROUNDS FOR THE MOTION ARE:

Overview of the Companies

5. Scotch & Soda is an international clothing brand. The Scotch & Soda group of companies was engaged in the business of designing, manufacturing, marketing and selling clothing and related products from retail stores, online and to other retailers located worldwide.

6. The Companies are the “Canadian arm” of the Scotch & Soda international group and operate a (i) retail business with four (4) direct-to-consumer retail stores (the “**Retail Business**”) and (ii) wholesale business supplying inventory to third party retailers comprised mostly of department stores (the “**Wholesale Business**”).
7. The Companies are incorporated under the British Columbia *Business Corporations Act* and the majority of the business (being the stores, creditors and inventory of the Companies) is located in Ontario (in the Greater Toronto Region).
8. The Companies are wholly owned subsidiaries of Scotch & Soda Export B.V (“**Scotch & Soda Export**”) which is ultimately owned by Scotch & Soda Group B.V (“**Scotch & Soda Netherlands**”). Scotch & Soda Export and Netherlands are both subject to insolvency proceedings in the Netherlands (the “**Netherlands Proceedings**”).
9. Retail operated under a franchise agreement dated June 4, 2019 with Scotch & Soda Export (the “**Franchise Agreement**”) and Wholesale operated pursuant to limited risk distribution agreement, dated April 15, 2021 with Scotch & Soda Export (the “**Distribution Agreement**”).

NOI Proceedings

10. Following the commencement of the Netherlands Proceedings, the Dutch bankruptcy trustees sold the Scotch & Soda intellectual property, and intercompany receivables owing by the Companies to affiliates of Bluestar Alliance LLC, S&S Brand Holdings, LLC (“**Bluestar 1**”) and S&S Operations LLC, respectively. Following the sale, the Dutch bankruptcy trustees delivered a termination notice to the Companies in respect of both the Franchise Agreement and the Distribution Agreement.

11. After discussion with Bluestar 1 the Companies made the decision to file the NOIs on May 8, 2023 (the “**Filing Date**”). KSV Restructuring Inc. (“**KSV**”) was appointed proposal trustee in each of the NOI Proceedings (the “**Proposal Trustee**”).
12. The largest unsecured creditor of each of the Companies is an affiliate of Bluestar Alliance LLC, S&S Operations LLC, and it has advised the Companies that it is supportive of the relief sought.

The Procedural Consolidation Order

13. The proposed Procedural Consolidation Order seeks to consolidate the NOI Proceedings only for administrative or procedural purposes.
14. The proposed Procedural Consolidation Order consolidating the NOI Proceedings will provide greater administrative efficiency and avoid duplicative steps across the proceedings and will not prejudice any stakeholder.

The Consulting Agreement and Sale Approval

15. In order to maximize the value of the Companies’ inventory (the “**Merchandise**”) and certain furnishings, trade fixtures, and equipment located in the applicable Stores (“**FF&E**”), the Companies are seeking authority to:
 - (a) retain the Consultant pursuant to the Consulting Agreement to complete a liquidation of Merchandise and FF&E that is located in the applicable Stores; and
 - (b) establish sale guidelines for the orderly conduct of the Sale (the “**Sale Guidelines**”).
16. The sale of all Merchandise is contemplated to run for approximately 8 weeks and to commence on the first business day following the granting of the Extension and Liquidation Sale

Approval Order, which is estimated to be May 17, 2023, and is expected to conclude by no later than July 5, 2023.

17. The proposed realization process set out in the Consulting Agreement and the Sale Guidelines was designed by the Companies and the Consultant, in consultation with the Proposal Trustee. The proposed liquidation process is intended to maximize the value realized from the sale of the Merchandise and FF&E for the benefit of stakeholders.

18. Engaging the Consultant to assist with the sale of the Merchandise and FF&E is expected to produce better results than attempting to liquidate without professional assistance.

19. The Consulting Agreement is expressly subject to, among other things, approval of this Court.

20. The Proposal Trustee is supportive of the proposed Sale, including the proposed timeline for completion of same.

Charges

21. The Companies are seeking Court-ordered charges (the “**Charges**”) on the Companies’ Property as follows:

(a) an administration charge (the “**Administration Charge**”) securing the fees and disbursements of counsel to the Companies, the Proposal Trustee and counsel to the Proposal Trustee in the maximum amount of \$125,000 (before HST) against the property of Retail and \$125,000 (before HST) on the property of Wholesale; and

(b) a director’s charge (the “**Director’s Charge**”) in favour of the directors and officers in the maximum amount of \$90,000 (before HST) against property of Retail and \$70,000 against the property of Wholesale. The Director’s Charge would only

secure the Companies' indemnity in favour of the directors and officers for post-filing obligations and would be in respect of amounts not covered by the Companies' directors and officers insurance policy.

22. The Director's Charge is proposed to form a second ranking charge on the Property in priority to all Encumbrances (as defined in the Extension and Liquidation Sale Approval Order) other than the Administration Charge.
23. The remaining director and officer of the Companies is not prepared to continue as director and officer of the Companies without the benefit of additional protection for post-filing liabilities.
24. The Companies have worked with the Proposal Trustee to estimate the proposed quantum of the Administration Charge and the Director's Charge and the Proposal Trustee is supportive of the granting of the Administration Charge and the Director's Charge.

Expansion of the Stay

25. In order to provide the Companies with the greatest opportunity to successfully complete the Store closing sale, and to contemporaneously consider options to continue their businesses, the Companies are seeking to include enhanced stay provisions to require suppliers and service providers to continue to provide goods and services without disruption to the Companies, provided they are not required to do so on credit. This relief is consistent with that provided for in proceedings under the *Companies' Creditors Arrangement Act*.
26. The Proposal Trustee is supportive of this relief.

WEPPA Relief

27. If no going-concern outcome for the Stores is identified, Retail will need to terminate the employment of some or all of its employees during these NOI Proceedings.
28. Although employees will be paid their full wages and vacation pay, the Companies' do not expect to be pay any termination and severance amounts to those employees whose employment will be terminated.
29. Retail is seeking a declaration that any terminated employees meet the criteria prescribed by WEPPA to assist employees to be able to file claims under WEPPA for any unpaid termination and severance pay.
30. The Proposal Trustee is supportive of the relief sought in connection with WEPPA.

Extensions of Time to File Proposals

31. The Companies are seeking an extension to file proposals in the NOI Proceedings. The Companies are seeking to extend the time for the Companies to file proposals pursuant to the BIA to July 22, 2023 (being 45 days from its current expiry of June 8, 2023) (the "**Filing Extension**").
32. The proposed Filing Extension would give the Companies the time needed to move forward with implementation of the steps described above including conducting the Sale, if approved by the Court.
33. The Companies are projected to have sufficient funds to operate through the Filing Extension.
34. Since the Filing Date the Companies have been complying with the various requirements under the BIA.

35. The Companies are working in good faith and due diligence in the period prior to and during the NOI Proceedings. If the Filing Extension is granted, the Companies will pursue the store closing sale and explore the possibility of making proposals to their creditors.
36. The Companies are not aware of any creditors who would be harmed by the Filing Extension.

Other Grounds

37. Sections 3, 50.4(1), 50.4(2)(b), 50.4(2)(c), 50.4(8), 50.4(9), 64.1, 64.2 of the BIA.
38. Sections 5(1) and 5(5) of the WEPPA.
39. Sections 3.2 of the *Wage Earner Protection Program Regulations*, SOR/2008-22
40. Rules 1.04, 1.05, 2.03, 3.02, 6, and 37.01 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended.
41. Such further and other grounds as the lawyers may advise and this Honourable Court may seem just.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

42. the Affidavit of Filip Tufvesson sworn May 11, 2023 and the exhibits thereto;
43. the First Report of the Proposal Trustee and the appendices thereto, to be filed; and
44. such further and other materials as counsel may advise and this Honourable Court may permit.

May 11, 2023

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Scotch & Soda Canada Inc.*

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
SCOTCH & SODA RETAIL CANADA INC. IN THE CITY OF TORONTO, IN THE
PROVINCE OF ONTARIO

Estate/Court File No.: 31-2941767

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

PROCEEDING COMMENCED AT
TORONTO

NOTICE OF MOTION

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Soda Canada Inc.*

TAB 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE ●) ●, THE ●TH
)
●) DAY OF ●, 2023

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
SCOTCH & SODA RETAIL CANADA INC.
IN THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

PROCEDURAL CONSOLIDATION ORDER

THIS MOTION, made by Scotch & Soda Retail Canada Inc. ("**Retail**"), for an order procedurally consolidating the proposal proceeding of Retail (Estate No. 31-2941767) and Scotch & Soda Canada Inc. (Estate No. 31-2941764) ("**Wholesale**") (each individually, a "**Proceeding**") and for certain other relief as described in Retail's Notice of Motion, was heard this day virtually via videoconference.

ON READING the Notice of Motion, the Affidavit of Filip Tufvesson sworn on May 11, 2023 (the "**Tufvesson Affidavit**"), including the exhibits thereto, the First Report of KSV Restructuring Inc., in its capacity as proposal trustee of Retail (the "**Proposal Trustee**"), dated May ●, 2023 (the "**First Report**"), filed, and on hearing the submissions of respective counsel for the Retail and Wholesale, the Proposal Trustee and such other counsel as were present as shown on the Participant Information Form, no one else appearing although duly served as appears from the Affidavit of Service of ● sworn May ●, 2023, filed:

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and First Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Tufvesson Affidavit.

PROCEDURAL CONSOLIDATION

3. **THIS COURT ORDERS** that the Retail Proceeding and Wholesale Proceeding for administrative purposes shall, subject to further order of the Court, be procedurally consolidated into one proceeding and shall continue under Estate No. 31-2941767 (the “**Consolidated Proceeding**”).
4. **THIS COURT ORDERS** that the procedural consolidation of the Proceedings pursuant to this Order shall not:
 - (a) affect the legal status or corporate structure of Retail; or
 - (b) cause Retail to be liable for any claim for which they are otherwise not liable, or cause Retail to have an interest in an asset to which it otherwise would not have.
5. **THIS COURT ORDERS** that the Proceedings are not substantively consolidated, and nothing in this Order shall be construed to that effect.
6. **THIS COURT ORDERS** that a copy of this Order shall be filed by Retail in the Court file for this Proceeding but any subsequent document required to be filed hereafter will only be required to be filed in the Consolidated Proceeding.
5. **THIS COURT ORDERS** that any motion, application or action, including the herein application, in respect of Retail shall be brought and filed in the Consolidated Proceeding and if so brought and filed it shall be deemed brought and filed in each of the Proceedings as appropriate, without prejudice to any rules of court or otherwise that are applicable.
6. **THIS COURT ORDERS** that the Style of Cause in the within proceedings is hereby amended and shall be assigned to the Consolidated Proceeding:

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
SCOTCH & SODA RETAIL CANADA INC. AND SCOTCH & SODA CANADA INC.
IN THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

GENERAL

7. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.
8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any Court, tribunal, agency or regulatory or administrative bodies, having jurisdiction in Canada, the United States of America or any other jurisdiction, to give effect to this Order and to assist Retail, the Proposal Trustee and their respective agents in carrying out the terms of this Order. All courts, tribunals, agencies and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Retail and to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Proposal Trustee in any foreign proceeding, or to assist Retail and the Proposal Trustee and their respective agents in carrying out the terms of this Order.
9. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 AM on the date of this Order without the need for entry or filing.

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
SCOTCH & SODA RETAIL CANADA INC. IN THE CITY OF TORONTO, IN THE
PROVINCE OF ONTARIO

Estate/Court File No.: 31-2941767

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

PROCEEDING COMMENCED AT
TORONTO

PROCEDURAL CONSOLIDATION ORDER

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*Lawyers for Scotch & Soda Retail Canada Inc. and Scotch &
Soda Canada Inc.*

TAB 3

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE ●) ●, THE ●TH
)
●) DAY OF ●, 2023

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
SCOTCH & SODA RETAIL CANADA INC. AND SCOTCH & SODA CANADA INC.
IN THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

EXTENSION AND LIQUIDATION SALE APPROVAL ORDER

THIS MOTION, made by Scotch & Soda Retail Canada Inc. (“**Retail**”), and Scotch & Soda Canada Inc. (“**Wholesale**” and together with Retail the “**Companies**” or each a “**Company**”) for an order, *inter alia*: (a) extending the time for the Companies to file proposals pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3 (the “**BIA**”); (b) approving the Administration Charge (as defined and described below); (c) approving the Director’s Charge (as defined and described below); (d) approving the consulting agreement between the Companies and Tiger Asset Solutions Canada, ULC (the “**Consultant**”) dated as of May 11, 2023 (as may be amended and restated in accordance with the terms thereof, the “**Consulting Agreement**”) and the transactions contemplated thereby; and (e) certain other relief as described in the Companies’ Notices of Motion, was heard this day virtually via videoconference.

ON READING the Companies’ Notices of Motion, the Affidavit of Filip Tufvesson sworn on May 11, 2023 (the “**Tufvesson Affidavit**”), including the exhibits thereto, the First Report of KSV Restructuring Inc., in its capacity as proposal trustee of the Companies (the “**Proposal Trustee**”), dated May 11, 2023 (the “**First Report**”), filed, and on hearing the submissions of respective counsel for the Companies, the Proposal Trustee and such other counsel as were present as shown on the Participant Information Form, no one else appearing although duly served as appears from the Affidavit of Service of ● sworn May ●, 2023, filed:

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Companies' Notices of Motion, the Motion Records and First Report are hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Tufvesson Affidavit, the Sale Guidelines (as defined below), or the Consulting Agreement, as applicable.

EXTENSION OF TIME TO FILE A PROPOSAL

3. **THIS COURT ORDERS** that pursuant to Section 50.4(9) of the BIA, the time for each of the Companies to file a proposal is hereby extended to July 22, 2023 (as that date may be extended by further order of the Court, the "**Proposal Extension Date**")

NO INTERFERENCE WITH RIGHTS

4. **THIS COURT ORDERS** that until the Proposal Extension Date, no individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any of the Companies, except with the written consent of the applicable Company and the Proposal Trustee, or leave of this Court.

CONTINUATION OF SERVICE

5. **THIS COURT ORDERS** that until the Proposal Extension Date, all Persons having oral or written agreements including purchase orders with the Companies or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Companies, are hereby restrained until further order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Companies, and that the Companies shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods

or services received after the date of this Order are paid by the Companies in accordance with normal payment practices of the Companies or such other practices as may be agreed upon by the supplier or service provider and each of the Companies and the Proposal Trustee, or as may be ordered by this Court.

6. **THIS COURT ORDERS** that until a real property lease is disclaimed or resiliated in accordance with the BIA, the applicable Company shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the applicable Company and the landlord from time to time, for the period commencing from and including the date of this Order, monthly on the first of each month, in advance (but not in arrears).

ADMINISTRATION CHARGE

7. **THIS COURT ORDERS** that the Proposal Trustee, counsel to the Proposal Trustee and counsel to the Companies (collectively, the “**Administrative Professionals**”) shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Companies as part of the costs of these proceedings. The Companies are hereby authorized and directed to pay the accounts of the Proposal Trustee, counsel for the Proposal Trustee and counsel for the Companies on a bi-weekly basis, or as they may otherwise agree.
8. **THIS COURT ORDERS** that the Administrative Professionals shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on all of the Companies’ present and future assets, undertakings and property of every nature and kind whatsoever and wherever situate, including all proceeds thereof (collectively, the “**Property**”), which charge shall not exceed an aggregate amount of \$125,000 (before HST), on the Property of Retail and \$125,000 (before HST) on the Property of Wholesale, as security for payment of their respective professional fees and disbursements incurred at their standard hourly rates, both before and after the making of this Order, in respect of this proceeding. The Administration Charge shall have the priority set out in paragraphs 12 and 14 hereof.

DIRECTORS’ INDEMNIFICATIONS AND CHARGES

9. **THIS COURT ORDERS** that the Companies shall indemnify their directors and officers against obligations and liabilities that they may incur as a director or officer of the Companies after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.
10. **THIS COURT ORDERS** that the directors and officers of the Companies shall be entitled to the benefit of and are hereby granted a charge (the "**Director's Charge**") on the Property, which charge shall not exceed an aggregate amount of \$90,000 (before HST) on the Property of Retail and \$70,000 (before HST) on the Property of Wholesale, as security for the indemnity provided in paragraph 9 of this Order. The Director's Charge shall have the priority set out in paragraphs 12 and 14 herein.
11. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Director's Charge, and (b) the Companies' directors and officers shall only be entitled to the benefit of the Director's Charge to the extent that they do not have coverage under any directors and officers insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 9 of this Order.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

12. **THIS COURT ORDERS** that the priorities of the Administration Charge and Director's Charge (collectively, the "**Charges**"), as among them, with respect to the Property shall be as follows:

First – Administration Charge

Second – Director's Charge

13. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

14. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise including Claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), *Personal Property Security Act* (Quebec), *Personal Property Security Act* (British Columbia), or any other personal or movable property registration system (all of such Claims (including the Charges) collectively referred to herein as the “**Encumbrances**”) in favour of any Person.
15. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Companies shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Companies also obtain the prior written consent of the Proposal Trustee, and the beneficiaries of the Charges, or do so pursuant to further Order of this Court.
16. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) the bankruptcy of any of the Companies; (c) the provisions of any federal or provincial statutes; or (d) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Companies, and notwithstanding any provision to the contrary in any Agreement:
 - (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Companies of any Agreement to which it is a party;
 - (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges, and
 - (c) the payments made by the Companies pursuant to this Order, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

THE CONSULTING AGREEMENT

17. **THIS COURT ORDERS** that the Consulting Agreement, including the sale guidelines attached as Schedule "A" hereto (the "**Sale Guidelines**"), and the transactions contemplated thereunder are hereby approved, authorized and ratified and that the execution of the Consulting Agreement by the Companies is hereby approved, authorized, and ratified, *nunc pro tunc*, with such minor amendments to the Consulting Agreement (but not the Sale Guidelines) as the Companies (with the consent of the Proposal Trustee) and the Consultant may agree to in writing. Subject to the provisions of this Order the Companies are hereby authorized and directed to take any and all actions as may be necessary or desirable to implement the Consulting Agreement and each of the transactions contemplated therein. Without limiting the foregoing, the Companies are authorized to execute any other agreement, contract, deed or document, or take any other action, that is necessary or desirable to give full and complete effect to the Consulting Agreement.

THE SALE

18. **THIS COURT ORDERS** that the Companies, with the assistance of the Consultant, is authorized to conduct the Sale in accordance with this Order, the Consulting Agreement and the Sale Guidelines and to advertise and promote the Sale within the Stores in accordance with the Sale Guidelines. If there is a conflict between this Order, the Consulting Agreement or the Sale Guidelines, the order of priority of documents to resolve such conflicts is as follows: (1) this Order; (2) the Sale Guidelines; and (3) the Consulting Agreement.
19. **THIS COURT ORDERS** that, the Companies, with the assistance of the Consultant, is authorized to market and sell, or otherwise dispose of, the Merchandise and FF&E on a "final sale" and/or "as is" basis and in accordance with the Sale Guidelines and the Consulting Agreement, free and clear of all liens, claims, encumbrances, security interests, mortgages, charges, trusts, deemed trusts, executions, levies, and financial, monetary or other claims, whether or not such claims have attached or been perfected, registered or filed and whether secured, unsecured, quantified or unquantified, contingent or otherwise, whensoever and howsoever arising, and whether such claims arose or came into existence prior to or following the date of this Order (in each case, whether contractual, statutory, arising by operation of law, in equity or otherwise) (all of the foregoing,

collectively “**Claims**”), including, without limitation, (a) the Charges and (b) Encumbrances, which Encumbrances will attach instead to the proceeds of the Sale in the same order and priority as they existed immediately prior to the Sale.

20. **THIS COURT ORDERS** that subject to the terms of this Order, and the Sale Guidelines, or any greater restrictions in the Consulting Agreement, the Consultant shall have the right to enter and use the Stores and all related store services and all facilities and all furniture, trade fixtures and equipment, including the FF&E, located at the Stores and other assets of the Companies as designated under the Consulting Agreement, for the purpose of conducting the Sale and for such purposes, the Consultant shall be entitled to the benefit of the stay of proceedings granted in favour of the Companies under the provisions of the BIA, as such stay of proceedings may be extended by further Order of the Court.
21. **THIS COURT ORDERS** that until the Sale Termination Date, the Consultant shall have access to the Stores in accordance with the applicable Leases and the Sale Guidelines on the basis that the Consultant is assisting the Companies, and the Companies has granted its right of access to the Stores to the Consultant. To the extent that the terms of the applicable Leases are in conflict with any term of this Order or the Sale Guidelines, the terms of this Order and the Sale Guidelines shall govern.
22. **THIS COURT ORDERS** that nothing in this Order shall amend or vary, or be deemed to amend or vary, the terms of the Leases. Nothing contained in this Order or the Sale Guidelines shall be construed to create or impose upon the Companies or the Consultant any additional restrictions not contained in the applicable Lease.
23. **THIS COURT ORDERS** that, subject to and in accordance with the Consulting Agreement, the Sale Guidelines and this Order, the Consultant is authorized to advertise and promote the Sale, without further consent of any Person other than (a) the Companies and the Proposal Trustee as provided under the Consulting Agreement; or (b) a Landlord as provided under the Sale Guidelines.
24. **THIS COURT ORDERS** that until the Sale Termination Date, the Consultant shall have the right to use, without interference by any Person (including any licensor), all licenses and rights granted to the Companies to use trade names, trademarks, logos, copyrights or other intellectual property of any Person, solely for the purpose of advertising and conducting the Sale of the Merchandise and FF&E in accordance with the terms of the Consulting Agreement, the Sale Guidelines, and this Order.

CONSULTANT LIABILITY

25. **THIS COURT ORDERS** that the Consultant shall act solely as an independent consultant to the Companies and that it shall not be liable for any claims against the Companies other than as expressly provided in the Consulting Agreement (including the Consultant's indemnity obligations thereunder) or the Sale Guidelines and, for greater certainty:
- (a) the Consultant shall not be deemed to be an owner or in possession, care, control or management of the Stores, of the assets located therein or associated therewith or of the Companies' employees located at the Stores or any other property of the Companies;
 - (b) the Consultant shall not be deemed to be an employer, or a joint or successor employer, related or common employer or payor within the meaning of any legislation, statute or regulation or rule of law or equity governing employment, labour standards, pension benefits or health and safety for any purpose whatsoever in relation to the employees of the Companies, and shall not incur any successorship liabilities whatsoever (including without limitation losses, costs, damages, fines or awards); and
 - (c) subject to and without limiting the Consultant's indemnification of the Companies pursuant to the Consulting Agreement the Consultant shall bear no responsibility for any liability whatsoever (including without limitation losses, costs, damages, fines or awards) relating to Claims of customers, employees and any other Persons arising from events occurring at the Stores during and after the term of the Sale, or otherwise in connection with the Sale, except to the extent that such Claims are the result of events or circumstances caused or contributed to by the gross negligence or wilful misconduct of the Consultant, its employees, Supervisors, independent contractors, agents or other representatives, or otherwise in accordance with the Consulting Agreement.
26. **THIS COURT ORDERS** that, to the extent (a) any Landlord has a claim against the Companies arising solely out of the conduct of the Consultant in conducting the Sale; and (b) the Companies have a claim against the Consultant under the Consulting Agreement arising from such conduct, the Companies shall be deemed to have assigned such claim

against the Consultant under the Consulting Agreement free and clear to the applicable Landlord (the “**Assigned Landlord Rights**”); provided that, each such Landlord shall only be permitted to advance the Assigned Landlord Rights against the Consultant if written notice, including the reasonable details of such claim, is provided by such Landlord to the Consultant, the Companies and the Proposal Trustee during the period commencing on the Sale Commencement Date and ending on the date that is thirty (30) days following the Sale Termination Date; provided, however, that, the Landlords shall be provided with access to the Stores to inspect the Stores within fifteen (15) days following the Sale Termination Date.

CONSULTANT AN UNAFFECTED CREDITOR

27. **THIS COURT ORDERS** that the Consulting Agreement shall not be repudiated, resiliated or disclaimed by the Companies nor shall the claims of the Consultant pursuant to the Consulting Agreement be compromised or arranged pursuant to proposal or plan of arrangement or compromise among the Companies and its creditors (a “**Proposal**”) and, for greater certainty, the Consultant shall be treated as an unaffected creditor in these proceedings and under any Proposal.
28. **THIS COURT ORDERS** that the Companies are hereby authorized and directed, in accordance with the Consulting Agreement, to remit all amounts that become due to the Consultant thereunder.
29. **THIS COURT ORDERS** that no Encumbrances shall attach to any amounts payable or to be credited or reimbursed to, or retained by, the Consultant pursuant to the Consulting Agreement, including without limitation, any amounts to be reimbursed by any Companies to the Consultant pursuant to the Consulting Agreement, and at all times the Consultant will retain such amounts, free and clear of all Encumbrances, notwithstanding any enforcement or other process or Claims, all in accordance with the Consulting Agreement.
30. **THIS COURT ORDERS** that notwithstanding:
 - (a) the pendency of these proceedings;
 - (b) any application for a bankruptcy order now or hereafter issued pursuant to the BIA in respect of any of the Companies, or any bankruptcy order made pursuant to any such applications;

- (c) any assignment in bankruptcy made in respect of any of the Companies;
- (d) the provisions of any federal or provincial statute; or
- (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of encumbrances, contained in any existing loan documents, lease, mortgage, security agreement, debenture, sublease, offer to lease or other document or agreement to which any Company is a party;

the Consulting Agreement and the transactions and actions provided for and contemplated therein, including without limitation, the payment of amounts due to the Consultant and the Assigned Landlord Rights shall be binding on any trustee in bankruptcy that may be appointed in respect of the Companies and shall not be void or voidable by any Person, including any creditor of the Companies, nor shall they, or any of them, constitute or be deemed to be a preference, fraudulent conveyance, transfer at undervalue or other challengeable or reviewable transaction, under the CCAA or BIA or any applicable law, nor shall they constitute oppressive or unfairly prejudicial conduct under any applicable law.

31. **THIS COURT ORDERS** that the Companies is authorized and permitted to transfer to the Consultant personal information in the Companies' custody and control solely for the purposes of assisting with and conducting the Sale and only to the extent necessary for such purposes and the Consultant is hereby authorized to make use of such personal information solely for the purposes as if it were the Companies, subject to and in accordance with the Consulting Agreement.

WAGE EARNER PROTECTION PROGRAM ACT

32. **THIS COURT ORDERS AND DECLARES** that pursuant to subsections 5(1)(b)(iv) and 5(5) of the *Wage Earner Protection Program Act* (Canada), S.C. 2005, c. 47, s. 1 ("**WEPPA**"), Retail and its employees, upon termination, meet the criteria prescribed by Section 3.2 of the *Wage Earner Protection Program Regulations*, SOR/2008-222 and each of Retail's employees are eligible, or will be eligible upon termination, to receive payments under and in accordance with WEPPA following the termination of their employment.
33. **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of

documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure, R.R.O. 1990. Reg. 194, as amended (the "Rules of Civil Procedure"). Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL:

www.ksvadvisory.com/experience/case/scotch-and-soda

34. **THIS COURT ORDERS** that the Companies, the Proposal Trustee and their respective counsel are at liberty to serve or distribute this Order, and other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Companies' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).
35. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Companies and the Proposal Trustee and their respective counsel and agents are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Companies' creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown on the records of the Companies and that any such service or distribution shall be deemed to be received on the earlier of (i) the date of forwarding thereof, if sent by electronic message on or prior to 5:00 p.m. Eastern Time (or on the next business day following the date of forwarding thereof if sent on a nonbusiness day); (ii) the next business day following the date of forwarding thereof, if sent by courier, personal delivery, facsimile transmission or electronic message sent after 5:00 p.m. Eastern; or (iii) on the third business day following the date of forwarding thereof, if sent by ordinary mail.

36. **THIS COURT ORDERS** that the Companies, the Proposal Trustee and each of their respective counsel are at liberty to serve or distribute this Order, and any other materials and orders as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding true copies thereof by electronic message (including by e-mail), to the Companies' creditors or other interested parties and their advisors as applicable. For greater certainty, any such service or distribution shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of Subsection 3(c) of the Electronic Commerce Protection Regulations (SOR/2013-221).

GENERAL

37. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.
38. **THIS COURT HEREBY REQUESTS** the aid and recognition of any Court, tribunal, agency or regulatory or administrative bodies, having jurisdiction in Canada, the United States of America or any other jurisdiction, to give effect to this Order and to assist the Companies, the Proposal Trustee and their respective agents in carrying out the terms of this Order. All courts, tribunals, agencies and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Companies and to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Proposal Trustee in any foreign proceeding, or to assist the Companies and the Proposal Trustee and their respective agents in carrying out the terms of this Order.
39. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:02 AM on the date of this Order without the need for entry or filing.

SCHEDULE "A"
SALE GUIDELINES

(Attached)

SALE GUIDELINES

Capitalized terms used but not defined in these Sale Guidelines shall have the meanings ascribed to them in the Extension and Liquidation Approval Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated May 16, 2023 (as amended and restated from time to time, (the “**Extension and Liquidation Approval Order**”) made in the proposal proceedings involving, Scotch & Soda Retail Canada Inc. and Scotch & Soda Canada Inc. (collectively, the “**Companies**”).

The following procedures shall apply to the sale (the “**Sale**”) of merchandise, inventory, furniture, fixtures and equipment at the Companies’ retail stores (individually, a “**Store**” and, collectively, the “**Stores**”).

1. Except as otherwise expressly set out herein, and subject to: (i) the Extension and Liquidation Approval Order approving, *inter alia*, the consulting agreement between the Companies and Tiger Asset Solutions Canada, ULC (collectively, the “**Consultant**”) dated as of May 11, 2023 (as amended and restated from time to time, the “**Consulting Agreement**”) and the transactions contemplated thereunder; (ii) any further Order of the Court; and/or (iii) any subsequent written agreement between the Companies and its Landlord(s) and approved by the Consultant, the Sale shall be conducted in accordance with the terms of the applicable Leases. However, nothing contained herein shall be construed to create or impose upon the Companies or the Consultant any additional restrictions not contained in the applicable Lease.
2. The Sale shall be conducted so that each Store remains open during its normal hours of operation provided for in its respective Lease, until the respective Sale Termination Date (as defined below) of each Store. The Sale at the Stores shall end by no later than July 5, 2023 (or such other date as determined in accordance with the Consulting Agreement, the “**Sale Termination Date**”).
3. The Sale shall be conducted in accordance with applicable federal, provincial and municipal laws and regulations, unless otherwise set out herein or ordered by the Court.
4. All display and hanging signs used by the Consultant in connection with the Sale shall be professionally produced and all hanging signs shall be hung in a professional manner. Notwithstanding anything to the contrary contained in the Leases, the Consultant may advertise the Sale at the Stores as a “everything on sale”, “everything must go”, “store closing” and/or similar theme sale at the Stores (provided however that no signs shall advertise the Sale as a “bankruptcy”, a “liquidation” or a “going out of business” sale). Forthwith upon request from a Landlord, the Landlord’s counsel, the Companies or the Proposal Trustee, the Consultant shall provide the proposed signage packages along with proposed dimensions by e-mail to the applicable Landlords or to their counsel of record and the applicable Landlord shall notify the Consultant of any requirement for such signage to otherwise comply with the terms of the Lease and/or these Sale Guidelines and where the provisions of the Lease conflict with these Sale Guidelines, these Sale Guidelines shall govern. The Consultant shall not use neon or day-glow signs or any handwritten signage (save that handwritten “you pay” or “topper” signs may be used). If a Landlord is concerned with “Store Closing” signs being placed in the front window of a Store or with the number or size of the signs in the front window, the Companies, the Consultant and the Landlord will work together to resolve the dispute. Furthermore, with respect to enclosed mall Store locations without a separate entrance from the exterior of the enclosed mall, no exterior signs or signs in common areas of a mall shall be used

unless explicitly permitted by the applicable Lease and shall otherwise be subject to all applicable laws. In addition, the Consultant shall be permitted to utilize exterior banners/signs at stand alone, strip mall or enclosed mall Store locations with a separate entrance from the exterior of the enclosed mall; provided, however, that: (i) no signage in any other common areas of a mall shall be used; and (ii) where such banners are not explicitly permitted by the applicable Lease and the Landlord requests in writing that banners are not to be used, no banners shall be used absent further Order of the Court, which may be sought on an expedited basis on notice to the Service List. Any banners used shall be located or hung so as to make clear that the Sale is being conducted only at the affected Store and shall not be wider than the premises occupied by the affected Store. All exterior banners shall be professionally hung and to the extent that there is any damage to the facade of the premises of a Store as a result of the hanging or removal of the exterior banner, such damage shall be professionally repaired at the expense of the Consultant.

5. The Consultant shall be permitted to utilize sign-walkers and street signage; provided, however, such sign-walkers and street signage shall not be located on the shopping centre or mall premises.
6. The Consultant shall be entitled to include additional merchandise of the Companies in the Sale; provided that: (i) the additional merchandise is currently in the possession or control of the Companies (including in any warehouse space used by the Companies) or has previously been ordered by or on behalf of the Companies and is currently in transit to the Companies (including any warehouse used by the Companies) or a Store; and (ii) the additional merchandise is of like kind and category and no lesser quality to the merchandise in the Stores at the commencement of the Sale.
7. Conspicuous signs shall be posted in the cash register areas of each of the Stores to the effect that all sales are "final" and customers with any questions or complaints are to call the Companies' customer care number.
8. The Consultant shall not distribute handbills, leaflets or other written materials to customers outside of any of the Stores on Landlord's property, unless explicitly permitted by the applicable Lease or, if distribution is customary in the shopping centre in which the Store is located. Otherwise, the Consultant may solicit customers in the Stores themselves. The Consultant shall not use any giant balloons, flashing lights or amplified sound to advertise the Sale or solicit customers, except as explicitly permitted under the applicable Lease or agreed to by the Landlord, and no advertising trucks shall be used on Landlord property or mall ring roads, except as explicitly permitted under the applicable Lease or agreed to by the Landlord.
9. At the conclusion of the Sale in each Store, the Consultant shall arrange that the premises for each Store are in "broom-swept- and clean condition, and shall arrange that the Stores are in the same condition as on the commencement of the Sale, ordinary wear and tear excepted. No property of any Landlord of a Store shall be removed or sold during the Sale. No permanent fixtures (other than the FF&E (as defined below)) may be removed without the applicable Landlord's written consent unless otherwise provided by the applicable Lease and in accordance with the Extension and Liquidation Sale Approval Order. Any trade fixtures or personal property left in a Store after the Sale in respect of which the applicable Lease has been disclaimed by the Companies shall be deemed abandoned, with the applicable Landlord having the right to dispose of the same as the Landlord chooses, without any liability whatsoever on the part of the Landlord. Notwithstanding the

foregoing, the Companies shall only abandon FF&E: (i) if the applicable Landlord has not objected in writing to the abandonment of FF&E within five (5) days of the granting of the Approval Order; or (ii) upon further order of the Court.

10. Subject to the terms of paragraph 9 above, the Consultant may also sell existing furniture, fixtures and equipment located in the Stores during the Sale that are (i) fully owned by the Companies; (ii) owned jointly by the Companies and one or more third-party vendors of the Companies, as directed by the Companies with the consent of the Proposal Trustee and agreed to by such third parties; or (iii) fully owned by a third party if agreed to by such third party and the Companies with the consent of the Proposal Trustee (collectively, the "**FF&E**"). For greater certainty, FF&E does not include any portion of a Stores' mechanical, electrical, plumbing, security, HVAC, sprinkler, fire suppression, or fire alarm systems (including related fixtures and affixed equipment). The Companies and the Consultant may advertise the sale of the FF&E consistent with these Sale Guidelines on the understanding that the Landlord may require such signs to be placed in discreet locations within the Stores reasonably acceptable to the Landlord. Additionally, the purchasers of any FF&E sold during the Sale shall only be permitted to remove the FF&E either through the back shipping areas designated by the Landlord or through other areas after regular Store business hours or, through the front door of the Store during Store business hours if the FF&E can fit in a shopping bag, with Landlord's supervision if required by the Landlord and in accordance with the Liquidation Sale Approval Order. The Consultant shall repair any damage to the Stores resulting from the removal of any FF&E or personal property of the Companies by the Consultant or by third party purchasers of FF&E or personal property from the Consultant.
11. The Consultant shall not make any alterations to interior or exterior Store lighting, except as authorized pursuant to the affected Lease. The hanging of exterior banners or other signage, where permitted in accordance with the terms of these Sale Guidelines, shall not constitute an alteration to a Store.
12. The Companies hereby provide notice to the Landlords of the Companies' and the Consultant's intention to sell and remove FF&E from the Stores. The Consultant shall make commercially reasonable efforts to arrange with each Landlord represented by counsel on the Service List and with any other Landlord that so requests, a walk-through with the Consultant to identify any FF&E that is subject to the Sale. The relevant Landlord shall be entitled to have a representative present in the applicable Stores to observe such removal. If the Landlord disputes the Consultant's entitlement to sell or remove any FF&E under the provisions of the Lease, such FF&E shall remain on the premises and shall be dealt with as agreed between the Companies, the Consultant and such Landlord, or by further Order of the Court upon application by the Companies on at least two (2) business days' notice to such Landlord and the Proposal Trustee. If the Companies has disclaimed the Lease governing such Store in accordance with the BIA it shall not be required to pay rent under such Lease pending resolution of any such dispute (other than rent payable for the notice period provided for in the BIA), and the disclaimer of the Lease shall be without prejudice to the Companies' or the Consultant's claim to the FF&E in dispute.
13. If a notice of disclaimer of Lease is delivered to a Landlord pursuant to the BIA while the Sale is ongoing and the Store in question has not yet been vacated, then: (i) during the notice period prior to the effective date of the disclaimer, the Landlord may show the affected Store to prospective tenants during normal business hours, on giving the Companies, the Proposal Trustee and the Consultant at least twenty-four (24) hours' prior written notice; and (ii) at the effective date of the disclaimer, the relevant Landlord shall be

entitled to take possession of any such Store without waiver of or prejudice to any claims or rights such Landlord may have against the Companies or any of its affiliates in respect of such Lease or Store; provided that, nothing herein shall relieve such Landlord of any obligation to mitigate any damages claimed in connection therewith.

14. The Consultant and its agents and representatives shall have the same access rights to the Stores as the Companies under the terms of the applicable Lease, and the Landlords shall have access rights to the Stores as provided for in the applicable Lease (subject, for greater certainty, to any applicable stay of proceedings).
15. The Companies and the Consultant shall not conduct any auctions of merchandise or FF&E at any of the Stores.
16. The Consultant shall designate a party to be contacted by the Landlords should a dispute arise concerning the conduct of the Sale. The initial contact person for the Consultant shall be Cassels Brock & Blackwell LLP, Suite 2100, Scotia Plaza, 40 King St. W., Toronto, ON M5H 3C2 Canada, Attn: Monique Sassi, Email: msassi@cassels.com. If the parties are unable to resolve the dispute between themselves, the Landlord or the Companies shall have the right to schedule a "status hearing" before the Court on no less than two (2) days written notice to the other party or parties and the Proposal Trustee, during which time the Consultant shall suspend all activity in dispute other than activities expressly permitted herein, pending determination of the matter by the Court; provided, however, subject to paragraph 4 of these Sale Guidelines, if a banner has been hung in accordance with these Sale Guidelines and is the subject of a dispute, the Consultant shall not be required to take any such banner down pending determination of any dispute.
17. Nothing herein or in the Consulting Agreement is, or shall be deemed to be, a sale, assignment or transfer of any Lease to the Consultant nor a consent by any Landlord to the sale, assignment or transfer of any Lease, or shall, or shall be deemed to, or grant to the Landlord any greater rights in relation to the sale, assignment or transfer of any Lease than already exist under the terms of any such Lease.
18. These Sale Guidelines may be amended on a Store-by-Store basis, by written agreement between the Companies, the Consultant, and the applicable Landlord, with the consent of the Proposal Trustee; provided however, that such amended Sale Guidelines shall not affect or bind any other Landlord not privy thereto without further Order of the Court approving such amended Sale Guidelines.

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
SCOTCH & SODA RETAIL CANADA INC. AND SCOTCH & SODA CANADA INC.
IN THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

Estate/Court File No.: 31-2941767

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

PROCEEDING COMMENCED AT
TORONTO

EXTENSION AND LIQUIDATION SALE APPROVAL ORDER

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*Lawyers for Scotch & Soda Retail Canada Inc. and Scotch &
Soda Canada Inc.*

TAB 4

**ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF SCOTCH &
SODA RETAIL CANADA INC. IN THE CITY OF TORONTO, IN THE PROVINCE OF
ONTARIO**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
SCOTCH & SODA CANADA INC. IN THE CITY OF TORONTO, IN THE PROVINCE OF
ONTARIO**

**AFFIDAVIT OF FILIP TUFVESSON
(sworn May 11, 2022)**

I, Filip Tufvesson, of the City of New York, in the State of New York, MAKE OATH AND
SAY AS FOLLOWS:

1. I am the Managing Director and President of Scotch & Soda Retail Canada Inc. (“**Retail**”) and Scotch & Soda Canada Inc. (“**Wholesale**”, together with Retail, the “**Companies**”). Effective May 9, 2023, I am the sole director and officer of the Companies. I have been the Controller of Scotch & Soda North America since March of 2016. As such, I have knowledge of the matters to which I hereinafter depose. Where I do not have personal knowledge of the matters set out herein, I have stated the source of my information and, in all such cases, believe it to be true.
2. On May 8, 2023 (the “**Filing Date**”), each of the Companies filed Notices of Intention to Make a Proposal (the “**NOI Proceedings**”) under the *Bankruptcy and Insolvency Act* (“**BIA**”). KSV Restructuring Inc. (“**KSV**”) was appointed proposal trustee in the NOI

Proceedings (the “**Proposal Trustee**”). Copies of the Certificates of Filing for each of the Companies are attached hereto as **Exhibit “A” and Exhibit “B”**, inclusive.

3. This affidavit is sworn in support of motions by each of the Companies in the NOI Proceedings seeking, among other things:

(a) an order (the “**Procedural Consolidation Order**”) procedurally consolidating the NOI Proceedings of Retail (Estate No. 31-2941767) and Wholesale (Estate No. 31-2941764) (each individually, a “**Proceeding**”) into one proceeding under Estate No. 31-2941767 (the “**Consolidated Proceeding**”);

(b) an order (the “**Extension and Liquidation Sale Approval Order**”):

(i) extending the time for the Companies to file proposals pursuant to the BIA to July 22, 2023 (being 45 days from its current expiry of June 8, 2023);

(ii) approving the Administration Charge and Director’s Charge (each as defined below);

(iii) approving the consulting agreement between the Companies and Tiger Asset Solutions Canada, ULC (the “**Consultant**”) dated as of May 11, 2023 (as may be amended and restated in accordance with the terms thereof, the “**Consulting Agreement**”) and the transactions contemplated thereby;

(iv) approving the proposed sale guidelines (the “**Sale Guidelines**”) for the orderly liquidation of the Merchandise (as defined below); and

- (v) approving relief in connection with the *Wage Earner Protection Program Act* (“**WEPPA**”) for any employees whose employment with the Companies may be terminated as part of the NOI Proceedings.

THE COMPANIES AND OPERATIONS

The Companies

4. Each of the Companies are incorporated under the British Columbia *Business Corporations Act* with registered head offices located at 2600-1066 West Hastings Street, Vancouver, BC, V6E 3X1 (being the office of former counsel to the Companies). The Companies do not have a head office in Canada, but as explained below, the majority of the business (being the stores, creditors and inventory of the Companies) is located in Ontario (in the Greater Toronto Region).
5. Attached hereto as **Exhibit “C”** and **Exhibit “D”** are copies of the Companies’ Corporate Profile Reports, dated April 11, 2023.
6. Wholesale was a wholly owned subsidiary of Scotch & Soda Export B.V. (“**Scotch & Soda Export**”) and Retail was a wholly owned subsidiary of Scotch & Soda Retail B.V. The subsidiaries were all ultimately owned by Scotch & Soda Group B.V. (“**Scotch & Soda Netherlands**”).

The Business

Global Business

7. Scotch & Soda was founded in the 1980’s in Amsterdam, the Netherlands as a menswear clothing brand and expanded to women’s and children clothing as well as sunglasses, footwear and most recently perfume. Scotch & Soda was engaged in the

business of designing, marketing and selling clothing and related products from retail stores, online and to other retailers located worldwide.

8. As described in more detail below, Scotch & Soda Netherlands and Scotch & Soda Export are both subject to insolvency proceedings in the Netherlands, and as part of those proceedings their assets have been sold (the “**Netherlands Sale**”).

Canadian Business

9. The Companies are the “Canadian arm” of the Scotch & Soda international group and operate a (i) retail business with direct-to-consumer retail stores (the “**Retail Business**”) and (ii) wholesale business supplying inventory to third party retailers comprised mostly of department stores (the “**Wholesale Business**”).
10. Retail operated under a franchise agreement dated June 4, 2019 with Scotch & Soda Export (the “**Franchise Agreement**”) and Wholesale operated pursuant to limited risk distribution agreement, dated April 15, 2021 with Scotch & Soda Export (the “**Distribution Agreement**”). As described below, the Distribution Agreement and Franchise Agreement were both terminated following the Netherlands Sale.
11. Retail currently conducts the Retail Business from four (4) Scotch & Soda stores in Ontario, British Columbia and Quebec as follows:
 - (a) **Toronto Eaton Centre, Toronto, Ontario:** pursuant to a lease agreement dated August 23, 2018 between Retail and CF/TEC Holdings Inc. and Ontrea/TEC Holdings Inc. both by their duly authorized agent, The Cadillac Fairview Corporation Limited (“**Cadillac**”) as the landlord.

- (b) **Toronto Premium Outlets, Halton Hills, Ontario:** pursuant to a lease agreement dated August 25, 2018 between Retail and Halton Hills Shopping Centre Partnership, c/o Simon Property Group, as landlord.
- (c) **Richmond Centre, Richmond, British Columbia:** pursuant to a lease dated October 11, 2012 between Retail and Ontrea Inc. and Ivanhoe Cambridge II Inc. by their duly authorized agent, Cadillac, as landlord and Freemark Apparel Brands Tec Inc., as amended and assigned to Retail
- (d) **Le Carrefour Laval, Laval, Québec:** pursuant to a lease dated On August 4, 2016, between Le Carrefour Laval (2013) Inc. (Cadillac), as landlord and Freemark Apparel Brands Tec Inc., as assigned to Retail.

(collectively, the “**Stores**”)

- 12. Rent on the 4 retail locations totals approximately \$112,000 (including HST) per month and was paid up until the end of April 2023. Since filing on May 8, 2023, Retail has also paid rent for the remaining portion of May, 2023.
- 13. Wholesale does not operate any stores. Rather, Wholesale utilizes the services of a third-party logistics provider based in Toronto, Ontario for the storage of its inventory and leases premises in Montreal as a show-room for Scotch & Soda wholesale products. Rent for the Montreal show-room has been paid in full for May, 2023.

Employees

- 14. Retail employs approximately twenty-eight (28) employees, twenty-five (25) of which are Store-level employees working in the Retail Business and three (3) provide services to the Wholesale Business. The Wholesale Business also receives services of an

additional individual employed by a Scotch & Soda entity incorporated in the United States.

15. Wholesale does not employ any employees.
16. Bi-weekly payroll for Retail is approximately \$45,000. Retail is current in respect of all payments of employee wages and amounts required to be remitted to governmental authorities for source deductions or otherwise. The Companies do not provide or administer any pension plans for its employees. The employees are not unionized.

THE COMPANY'S CREDITORS

Secured Creditors

17. Searches of the Personal Property Security Registration Systems in Ontario, British Columbia and Quebec (the "**PPRSs**") as of May 8, 2023, disclosed registrations against the Companies in favour of:
 - (a) ING Bank N.V., as Security Agent ("**ING**"); and
 - (b) S&S Lender LLC.
18. A copy of each of the PPRS search results are attached hereto as **Exhibit "E"** to **Exhibit "J"**, inclusive.
19. As described below, pursuant to the Netherlands Sale, S&S Lender LLC ("**Bluestar 3**"), an affiliate of Bluestar Alliance LLC acquired debt and security from PNC Bank including security over all of the Companies' assets. It is expected that this secured debt will be extinguished by the foreclosure proceedings in the United States.
20. I believe that the debt owing to ING has been repaid and ING is no longer a secured creditor of the Companies.

Other Creditors

21. As of the Filing Date, amounts owing to trade creditors by (i) Retail total approximately \$2.4 million and (ii) Wholesale total approximately \$5.33 million. Of these amounts, amounts owing to Scotch & Soda Export (which I understand were purchased by Bluestar 2, as defined below), total approximately \$2.3 million for Retail and \$5.3 million for Wholesale. These amounts are before off-balance sheet liabilities, including any amounts that may be owing as a result of the termination of employees and contracts.

THE NOI PROCEEDING

Netherlands Insolvency Proceedings

22. On March 20, 2023, Scotch & Soda Netherlands and other related entities including Scotch & Soda Export were declared bankrupt pursuant to Dutch law (the “**Netherlands Proceedings**”).
23. During the Netherlands Proceedings, the Dutch court appointed bankruptcy trustees entered into a sale agreement for the majority of the Scotch & Soda international business (the “**Netherlands Sale**”). The Netherlands Sale did not include the purchase of the Retail Business or Wholesale Business.
24. Pursuant to the Netherlands Sale, effective as of April 1, 2023, I have been advised by the Dutch trustees that all of the Scotch & Soda intellectual property, including the Companies’ rights to this intellectual property, was sold to S&S Brand Holdings, LLC (“**Bluestar 1**”). As well, as part of the Netherlands Sale certain accounts receivable owing to Scotch & Soda Export, including accounts receivable owing by the Companies, was acquired by S&S Operations LLC (“**Bluestar 2**”). The acquisition of these accounts receivables made Bluestar 2 the largest unsecured creditor of Retail and Wholesale.

25. Separately, I understand that certain secured debt owed by certain of Scotch & Soda entities to PNC Bank was acquired by S&S Lenders LLC, ("**Bluestar 3**"). This debt was secured against the assets of both Scotch & Soda entities in the United States and the Companies. I understand that Bluestar 3 and certain Scotch & Soda entities in the U.S. are currently in the process of completing a foreclosure process in the United States, which is expected to extinguish the secured debt of Bluestar 3 against the Companies.
26. Following the Netherlands Sale, on May 2, 2023 Scotch & Soda Export delivered to Retail and Wholesale, a termination notice terminating both the Franchise Agreement and Distribution Agreement (the "**Termination Notice**"). Attached hereto as **Exhibit "K"** is a copy of the Termination Notice.

NOI Proceedings

27. KSV Advisory Inc. ("**KSV Advisory**"), an affiliate of KSV, was engaged by the Companies in April 2023 to assist the Companies to consider their restructuring options.
28. Following delivery of the Termination Notice, Bluestar 1 advised the Companies and the Proposal Trustee that it would permit the use of the intellectual property for the limited purpose of liquidating the inventory in Canada through the NOI Proceedings.
29. Accordingly, on May 8, 2023, the Companies commenced the NOI Proceedings to provide stability to the Companies and allow the opportunity to explore opportunities for its business while moving forward with Store closure and formal liquidation of inventory process.

CONSULTING AGREEMENT AND SALE GUIDELINES¹

30. In consultation with the Proposal Trustee, the Companies selected Tiger as consultant and entered into the Consulting Agreement with Tiger, subject to approval of the Court, as Tiger has extensive experience conducting retail liquidations. This experience includes acting as part of the joint venture conducting the recent liquidation of the Nordstrom stores, but importantly also includes much smaller scale liquidations of a similar size to the Companies (for example in the liquidation of the Chico's stores).
31. The Companies, in consultation with the Proposal Trustee negotiated and finalized the terms of the Consulting Agreement and Sale Guidelines with the Consultant.
32. On May 11, 2023, the Consultant and the Companies entered into the Consulting Agreement, subject to, among other things, approval of the Consulting Agreement by the Court. A copy of the Consulting Agreement is attached hereto as **Exhibit "L"**. The Consulting Agreement provides, among other things, that:
 - (a) the Consultant is appointed as consultant for purposes of conducting a "Store Closing", "Everything Must Go", "Everything on Sale" or similar themed sale (the "**Sale**") of:
 - (i) all items of owned merchandise or inventory located in the Stores as of the applicable Sale Commencement Date as well as additional inventory owned by the Companies and delivered to the applicable Stores by or after the Sale Commencement Date (the "**Merchandise**"); and
 - (ii) furniture, fixtures, and equipment located in the Stores as of the applicable Sale Commencement Date for such Stores (the "**FF&E**");

¹ Capitalized terms not defined in this section shall have the meaning given to them in the Consulting Agreement.

- (b) the Sale will commence on the first business day following the entry of the Extension and Liquidation Sale Approval Order, if granted, which is estimated to be May 17, 2023 (the “**Sale Commencement Date**”);
- (c) the Sale will terminate in each Store upon mutual agreement between the Companies and the Consultant but no later than July 5, 2023 (the “**Sale Termination Date**”). The Sale Termination Date can be extended if mutually agreed upon between the Companies and the Consultant;
- (d) all sales of Merchandise made on behalf of the Companies shall be by cash, debit or credit (no checks) and will be “final” with no returns accepted or allowed;
- (e) the Companies are responsible for all expenses incurred in operating the Stores during the Sale including the “Sale Expenses” which shall not exceed the amounts set forth in the Budget;
- (f) throughout the Sale Term, the Consultant will directly retain and engage supervisors to use during the Sale;
- (g) as consideration for its services in accordance with the Consulting Agreement, the Consultant will be entitled to a (i) base fee of \$50,000 payable in five equal instalments of \$10,000 starting on the second week of the Sale; and (ii) commission equal to 15% of the gross proceeds generated from the sale of the FF&E;
- (h) the Companies will fund \$20,000 on execution of the Consulting Agreement and a further \$20,000 upon the Court granting the Extension and Liquidation Sale Approval Order which shall be held by the Consultant as security for payment of

the Consulting Fee, the reimbursement of Sale Expenses and payment of any other amounts to Consultant under the Consulting Agreement; and

- (i) at the end of the Sale Term, the Consultant will leave the premises for each Store to the Companies in broom clean condition, reasonable wear and tear excepted

33. The Consulting Agreement is also subject to the Sale Guidelines. The Sale Guidelines provide, among other things, that:

- (a) subject to the Extension and Liquidation Approval Order, any further order of the Court, and any subsequent written agreement between the Companies and the landlord(s), the Sale will be conducted in accordance with the terms of the applicable lease;
- (b) neither the Companies nor the Consultant will conduct any auctions of Merchandise or FF&E at the Stores;
- (c) the Sale will be conducted during the normal hours of operation provided in each lease, until the Sale Termination Date;
- (d) the Sale will be conducted in accordance with applicable federal, provincial and municipal laws and regulations (unless otherwise ordered by the Court);
- (e) the Sale may be advertised as a “everything on sale”, “everything must go”, “store closing” and/or similar theme sale at the Stores (provided, however, that no signs may advertise the Sale as a “bankruptcy”, a “liquidation” or a “going out of business” sale);
- (f) the Consultant may include additional merchandise of the Companies in the Sale, but only: (i) additional merchandise that is currently in the possession or

control of the Companies (including in any storage or warehouse space used by the Companies) or which has previously been ordered by or on behalf of the Companies and is currently in transit to the Companies (including any warehouse used by the Companies) or a Store;

- (g) at the conclusion of the Sale in each Store, the Consultant will leave the Store in a “broom-swept” and clean condition, and will arrange that the Store is in the same condition as on the commencement of the Sale, ordinary wear and tear excepted; and
 - (h) if a notice of disclaimer of lease is delivered to the landlord during the course of the Sale, the landlord may show the affected Store to prospective tenants during normal business hours on giving the Companies, the Proposal Trustee, and the Consultant at least 24 hours’ prior written notice.
34. The Sale Guidelines may be amended on a Store-by-Store basis on the written agreement of the Companies, the Consultant, and the applicable landlord, with the consent of the Proposal Trustee.
35. The Consulting Agreement is expressly subject to, among other things, approval of the Court. The proposed realization process set out in the Consulting Agreement and the Sale Guidelines was designed by the Companies and the Consultant, in consultation with the Proposal Trustee. I expect that the proposed liquidation process will maximize the value realized from the sale of the Merchandise and FF&E for the benefit of stakeholders. I am also of the view that engaging the Consultant to assist with the sale of the Merchandise and FF&E will produce better results than attempting to liquidate without professional assistance.

36. The Companies intend to consult and work cooperatively with the landlords throughout the entirety of the Sale, and to make best efforts to address any concerns raised by landlords to the extent possible. The Companies, through its counsel has already undertaken discussions with counsel for Cadillac, who is landlord 3 of the 4 Stores, in an effort to keep such landlords fully apprised regarding the details of the proposed Sale and address any concerns or comments such landlords may have prior to finalization of the proposed Sale.
37. I am advised by the Proposal Trustee and believe that the Proposal Trustee supports the proposed Sale, including the proposed timeline for completion of same.
38. The Companies believe that the Sale must be commenced as soon as possible to maximize recoveries available to their respective stakeholders and to limit ongoing operating costs, thereby ensuring that the Companies can exit from all Stores as soon as practicable.

CASH FLOWS

39. The Companies have prepared a cash flow forecast (the “**Cash Flow Forecast**”), with the assistance of the Proposal Trustee, which sets out projected cash flows for the period May 8, 2023 to July 22, 2023 (the “**Cash Flow Period**”), a copy of which I understand will be filed with the Court by the Proposal Trustee in connection with the Companies’ motions.
40. As set out in the Cash Flow Forecast, the Companies are expected to have sufficient liquidity to operate to the end of the Cash Flow Period.

ADDITIONAL RELIEF SOUGHT

(a) Procedural Consolidation

41. The Procedural Consolidation Order seeks to consolidate the NOI Proceedings only for administrative or procedural purposes.
42. Wholesale and Retail are the only Canadian subsidiaries of Scotch & Soda Export and Netherlands and are the primary entities responsible for the Canadian business. The proposed Procedural Consolidation Order consolidating the NOI Proceedings will provide greater administrative efficiency.
43. The purpose of this consolidation is to avoid duplicative steps across the proceedings, which I believe will add efficiency to the proceedings, conserve resources, and will not prejudice any stakeholder.

(b) Charges

Administration Charge

44. The Companies are seeking an order granting a charge (the “**Administration Charge**”) over the Companies’ Property (as defined in the Extension and Liquidation Approval Order) securing the fees and disbursements of counsel to the Companies, the Proposal Trustee and counsel to the Proposal Trustee. The proposed Administration Charge will not exceed \$125,000 (before HST) against the Property of Retail and \$125,000 (before HST) on the Property of Wholesale.
45. The professionals whose fees are to be secured by the Administration Charge have taken on, and will continue to take on, a critical role in the NOI Proceedings.
46. The Companies have worked with the Proposal Trustee to estimate the proposed quantum of the Administration Charge and I believe it to be reasonable and appropriate in the circumstances. The amount of the Administration Charge contemplates that the Administrative Professionals are paid on a current basis during these proceedings.

Director's Charge

47. I am the only remaining director and officer of the Companies, with 2 other former directors having resigned effective as of May 9, 2023. I am advised by lawyers at Cassels Brock & Blackwell LLP and believe that, in certain circumstances, directors of Canadian companies can be held liable for certain obligations of a company owing to employees and government entities, which may include unpaid withholdings and source deductions, accrued wages, unpaid vacation pay, and unremitted sales taxes.
48. Although, the directors and officers have the benefit of an insurance policy (the "**D&O Policy**") in respect of their potential liability, the D&O Policy is set to expire on July 1, 2023. As well, coverage is subject to several exclusions and limitations and there is a potential for insufficient coverage in respect of potential director and officer liabilities. I am not prepared to continue as a director and officer of the Companies without the benefit of additional protection for post-filing liabilities that I may incur in those roles.
49. In light of the forgoing, the Companies are seeking an order granting a charge in favour of the directors and officers of the Companies which shall not exceed \$90,000 (before HST) against the Property of Retail and \$70,000 against the Property of Wholesale (the "**Director's Charge**"). The Director's Charge would only be in respect of amounts not covered by the Companies' D&O Policy.
50. The Director's Charge will form a second ranking charge on the Property in priority to all Encumbrances (as defined in the Extension and Liquidation Sale Approval Order) other than the Administration Charge.
51. The Companies have worked with the Proposal Trustee to estimate the proposed quantum of the Director's Charge and I believe it to be reasonable and appropriate in the circumstances.

(c) Stay Extension

52. In order to provide the Companies with the greatest opportunity to successfully complete the Store closing sale, and to contemporaneously consider options to continue their businesses, the Companies are seeking to include enhanced stay provisions to require suppliers and service providers to continue to provide goods and services without disruption to the Companies, provided they are not required to do so on credit.
53. I believe that any disruptions would impair the Companies' ability to continue to operate the Store closing sales and, potentially, the prospect of identifying going-concern solutions.
54. The Proposal Trustee is supportive of this relief.

(d) WEPPA Relief

55. If there is no purchaser for the Canadian business or a going-concern outcome for the Stores, Retail will need to terminate the employment of some or all of its employees during these NOI Proceedings.
56. All employees will be paid their full wages and vacation pay but will not be paid any termination and severance pay on termination. Retail would like to assist the employees to be able to forthwith file claims under WEPPA for any unpaid termination and severance pay.
57. The Proposal Trustee is supportive of the relief sought in connection with WEPPA.

(e) Extensions of Time to File Proposals

58. The Companies are seeking an extension to file Proposals in the NOI Proceedings. The Companies are seeking an additional 45-day period from the date following the current

deadline (which is July 8, 2023) such that the Companies may file Proposals up to and including the July 22, 2023 (the “**Filing Extension**”) to file Proposals under the BIA.

59. The proposed Filing Extension would give the Companies the time needed to move forward with implementation of the steps described above including conducting the Sale, if approved by the Court. Since the Filing Date the Companies have been complying with the various requirements under the BIA. The Companies have:
- (a) prepared and analyzed the list of creditors;
 - (b) provided the Proposal Trustee with access to Companies’ books and records and personnel; and
 - (c) completed the Cash Flow Forecast.
60. The Companies are working in good faith and due diligence in the period prior to and during the NOI Proceedings.
61. The proposed Filing Extension will allow the Companies time to pursue and complete these realizations efforts for the benefit of the Companies’ stakeholders and make progress towards achieving the best results for stakeholders.

62. I am not aware of any creditors who would be harmed by the Filing Extension.

SWORN BEFORE ME

by videoconference on May 11, 2023 in
accordance with O.Reg. 431/20:
Administering Oath or Declaration
Remotely. The deponent was located in the
City of New York in the State of New York
and I was located in the City of Toronto in
the Province of Ontario.



Monique Sassi
LSO#: 63638L

Filip Tufvesson

Commissioner for Taking Affidavits
(or as may be)

This is **Exhibit "A"** referred to in the affidavit of Filip Tufvesson, affirmed before me by videoconference on May 11, 2023 in accordance with O.Reg. 431/20: Administering Oath or Declaration Remotely. The deponent was in the City of New York, in the State of New York and I was located in the City of Toronto in the Province of Ontario



.....
A Commissioner For Taking Affidavits

Commissioner Name: Monique Sassi
Law Society of Ontario Number: 63638L



Industry Canada
Office of the Superintendent
of Bankruptcy Canada

Industrie Canada
Bureau du surintendant
des faillites Canada

District of Ontario
Division No. 09 - Toronto
Court No. 31-2941764
Estate No. 31-2941764

In the Matter of the Notice of Intention to make a proposal of:

Scotch & Soda Canada Inc.

Insolvent Person

KSV RESTRUCTURING INC.

Licensed Insolvency Trustee

Date of the Notice of Intention:

May 08, 2023

CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the Bankruptcy and Insolvency Act;

Pursuant to subsection 69. (1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: May 08, 2023, 13:16

E-File/Dépôt Electronique

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

Canada

This is **Exhibit "B"** referred to in the affidavit of Filip Tufvesson, affirmed before me by videoconference on May 11, 2023 in accordance with O.Reg. 431/20: Administering Oath or Declaration Remotely. The deponent was in the City of New York, in the State of New York and I was located in the City of Toronto in the Province of Ontario



.....
A Commissioner For Taking Affidavits

Commissioner Name: Monique Sassi
Law Society of Ontario Number: 63638L



Industry Canada
Office of the Superintendent
of Bankruptcy Canada

Industrie Canada
Bureau du surintendant
des faillites Canada

District of Ontario
Division No. 09 - Toronto
Court No. 31-2941767
Estate No. 31-2941767

In the Matter of the Notice of Intention to make a proposal of:

Scotch & Soda Retail Canada Inc.

Insolvent Person

KSV RESTRUCTURING INC.

Licensed Insolvency Trustee

Date of the Notice of Intention:

May 08, 2023

CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the Bankruptcy and Insolvency Act;

Pursuant to subsection 69. (1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: May 08, 2023, 13:21

E-File/Dépôt Electronique

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

Canada

This is **Exhibit "C"** referred to in the affidavit of Filip Tufvesson, affirmed before me by videoconference on May 11, 2023 in accordance with O.Reg. 431/20: Administering Oath or Declaration Remotely. The deponent was in the City of New York, in the State of New York and I was located in the City of Toronto in the Province of Ontario



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A Commissioner For Taking Affidavits

Commissioner Name: Monique Sassi
Law Society of Ontario Number: 63638L



BC Company Summary

For
SCOTCH & SODA CANADA INC.

Date and Time of Search: April 11, 2023 11:35 AM Pacific Time
Currency Date: September 20, 2022

ACTIVE

Incorporation Number: BC1108658
Name of Company: SCOTCH & SODA CANADA INC.
Business Number: 727710691 BC0001
Recognition Date and Time: Incorporated on February 24, 2017 11:43 AM Pacific Time
Last Annual Report Filed: February 24, 2022
In Liquidation: No
Receiver: No

REGISTERED OFFICE INFORMATION

Mailing Address:
2600 - 1066 WEST HASTINGS STREET
VANCOUVER BC V6E 3X1
CANADA
Delivery Address:
2600 - 1066 WEST HASTINGS STREET
VANCOUVER BC V6E 3X1
CANADA

RECORDS OFFICE INFORMATION

Mailing Address:
2600 - 1066 WEST HASTINGS STREET
VANCOUVER BC V6E 3X1
CANADA
Delivery Address:
2600 - 1066 WEST HASTINGS STREET
VANCOUVER BC V6E 3X1
CANADA

DIRECTOR INFORMATION

Last Name, First Name, Middle Name:
Bervoets, Thomas Jan

Mailing Address:
JACOBUS SPIJKERDREEF 20
HOOFDDORP 2132 PZ
NETHERLANDS
Delivery Address:
JACOBUS SPIJKERDREEF 20
HOOFDDORP 2132 PZ
NETHERLANDS

Last Name, First Name, Middle Name:

Durmer, Karis

Mailing Address:

37 E. 18TH STREET, 10TH FLOOR
NEW YORK NY 10003
UNITED STATES

Delivery Address:

37 E. 18TH STREET, 10TH FLOOR
NEW YORK NY 10003
UNITED STATES

Last Name, First Name, Middle Name:

Tufvesson, Filip

Mailing Address:

37 E. 18TH STREET, 10TH FLOOR
NEW YORK NY 10003
UNITED STATES

Delivery Address:

37 E. 18TH STREET, 10TH FLOOR
NEW YORK NY 10003
UNITED STATES

OFFICER INFORMATION AS AT February 24, 2022

Last Name, First Name, Middle Name:

Tufvesson, Filip

Office(s) Held: (President, Secretary)

Mailing Address:

37 E. 18TH STREET, 10TH FLOOR
NEW YORK NY 10003
UNITED STATES

Delivery Address:

37 E. 18TH STREET, 10TH FLOOR
NEW YORK NY 10003
UNITED STATES

This is **Exhibit "D"** referred to in the affidavit of Filip Tufvesson, affirmed before me by videoconference on May 11, 2023 in accordance with O.Reg. 431/20: Administering Oath or Declaration Remotely. The deponent was in the City of New York, in the State of New York and I was located in the City of Toronto in the Province of Ontario



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A Commissioner For Taking Affidavits

Commissioner Name: Monique Sassi
Law Society of Ontario Number: 63638L



BC Company Summary

For
SCOTCH & SODA RETAIL CANADA INC.

Date and Time of Search: April 11, 2023 11:35 AM Pacific Time
Currency Date: September 20, 2022

ACTIVE

Incorporation Number: BC1108655
Name of Company: SCOTCH & SODA RETAIL CANADA INC.
Business Number: 726707128 BC0001
Recognition Date and Time: Incorporated on February 24, 2017 11:38 AM Pacific Time
Last Annual Report Filed: February 24, 2022
In Liquidation: No
Receiver: No

REGISTERED OFFICE INFORMATION

Mailing Address: 2600 - 1066 WEST HASTINGS STREET
VANCOUVER BC V6E 3X1
CANADA
Delivery Address: 2600 - 1066 WEST HASTINGS STREET
VANCOUVER BC V6E 3X1
CANADA

RECORDS OFFICE INFORMATION

Mailing Address: 2600 - 1066 WEST HASTINGS STREET
VANCOUVER BC V6E 3X1
CANADA
Delivery Address: 2600 - 1066 WEST HASTINGS STREET
VANCOUVER BC V6E 3X1
CANADA

DIRECTOR INFORMATION

Last Name, First Name, Middle Name:
Bervoets, Thomas Jan

Mailing Address: JACOBUS SPIJKERDREEF 20
HOOFDDORP 2132 PZ
NETHERLANDS
Delivery Address: JACOBUS SPIJKERDREEF 20
HOOFDDORP 2132 PZ
NETHERLANDS

Last Name, First Name, Middle Name:

Durmer, Karis

Mailing Address:

37 E. 18TH STREET, 10TH FLOOR
NEW YORK NY 10003
UNITED STATES

Delivery Address:

37 E. 18TH STREET, 10TH FLOOR
NEW YORK NY 10003
UNITED STATES

Last Name, First Name, Middle Name:

Tufvesson, Filip

Mailing Address:

37 E. 18TH STREET, 10TH FLOOR
NEW YORK NY 10003
UNITED STATES

Delivery Address:

37 E. 18TH STREET, 10TH FLOOR
NEW YORK NY 10003
UNITED STATES

OFFICER INFORMATION AS AT February 24, 2022

Last Name, First Name, Middle Name:

Tufvesson, Filip

Office(s) Held: (President, Secretary)

Mailing Address:

37 E. 18TH STREET, 10TH FLOOR
NEW YORK NY 10003
UNITED STATES

Delivery Address:

37 E. 18TH STREET, 10TH FLOOR
NEW YORK NY 10003
UNITED STATES

This is **Exhibit “E”** referred to in the affidavit of Filip Tufvesson, affirmed before me by videoconference on May 11, 2023 in accordance with O.Reg. 431/20: Administering Oath or Declaration Remotely. The deponent was in the City of New York, in the State of New York and I was located in the City of Toronto in the Province of Ontario



.....
A Commissioner For Taking Affidavits

Commissioner Name: Monique Sassi
Law Society of Ontario Number: 63638L



- Web Page ID: WEnqResult
- System Date: 11APR2023
- Last Modified: April 02, 2023

Note: All pages have been returned.

Type of Search	Business Debtor								
Search Conducted On	SCOTCH & SODA CANADA INC.								
File Currency	10APR 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	725827617	1	3	1	8	22MAR 2027			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
725827617		001	3		20170322 1411 1590 0112	P PPSA	10		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	SCOTCH & SODA CANADA INC.								
	Address				City	Province	Postal Code		
	JACOBUS SPIJKERDREEF 20-24				2132 PZ HOOFDDORP				
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	ING BANK N.V., AS SECURITY AGENT								
	Address				City	Province	Postal Code		
	BIJLMERPLEIN 888, 1102 MG, AMSTERDAM				THE NETHERLANDS				
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X		X	X				
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
	A SECURITY INTEREST IS TAKEN IN ALL INVENTORY, ALL ACCOUNTS RELATED TO SUCH INVENTORY AND ALL GENERAL INTANGIBLES, INSTRUMENTS (INCLUDING, WITHOUT LIMITATION, PROMISSORY NOTES), CHATTEL PAPER								
Registering Agent	Registering Agent								
	GOODMANS LLP (DD/MB)								
	Address				City	Province	Postal Code		
	3400-333 BAY STREET, BAY ADELAIDE CENTRE				TORONTO	ON	M5H 2S7		
Type of Search	Business Debtor								
Search Conducted On	SCOTCH & SODA CANADA INC.								
File Currency	10APR 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	725827617	1	3	2	8	22MAR 2027			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
725827617		002	3		20170322 1411 1590 0112				

Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address					City	Province	Postal Code	
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address					City	Province	Postal Code	
Secured Party	Secured Party / Lien Claimant								
Address					City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
	(WHETHER TANGIBLE OR ELECTRONIC), DOCUMENTS AND ANY OTHER CONTRACT RIGHTS AND SUPPORTING OBLIGATIONS, IN EACH CASE, RELATED TO SUCH INVENTORY OR ACCOUNTS, TOGETHER WITH ALL BOOKS, RECORDS, WRITINGS,								
Registering Agent	Registering Agent								
Address					City	Province	Postal Code		
Type of Search	Business Debtor								
Search Conducted On	SCOTCH & SODA CANADA INC.								
File Currency	10APR 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	725827617	1	3	3	8	22MAR 2027			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
725827617		003	3		20170322 1411 1590 0112				
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address					City	Province	Postal Code	
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address					City	Province	Postal Code	
Secured Party	Secured Party / Lien Claimant								

	Address					City	Province	Postal Code	
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model		V.I.N.		
General Collateral Description	General Collateral Description								
	DATA BASES, INFORMATION, MATERIALS OR OTHER PROPERTY RELATING TO ANY OF THE FOREGOING.								
Registering Agent	Registering Agent								
	Address					City	Province	Postal Code	
Type of Search	Business Debtor								
Search Conducted On	SCOTCH & SODA CANADA INC.								
File Currency	10APR 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	756911259	2	3	4	8	25OCT 2024			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule		Registration Number	Registered Under	Registration Period	
756911259		001	002			20191025 1130 1862 0664	P PPSA	5	
Individual Debtor	Date of Birth		First Given Name			Initial		Surname	
Business Debtor	Business Debtor Name						Ontario Corporation Number		
	SCOTCH & SODA CANADA INC.								
	Address					City	Province	Postal Code	
	C/O SUN CAPITAL PARTNERS, INC., 5200 TOW					BOCA RATON	FL	33486	
Individual Debtor	Date of Birth		First Given Name			Initial		Surname	
Business Debtor	Business Debtor Name						Ontario Corporation Number		
	Address					City	Province	Postal Code	
Secured Party	Secured Party / Lien Claimant								
	PNC BANK, NATIONAL ASSOCIATION, AS AGENT								
	Address					City	Province	Postal Code	
	1600 MARKET STREET					PHILADELPHIA	PA	19103	
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X		X	X				
Motor Vehicle Description	Year	Make			Model		V.I.N.		
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								

	MILLER THOMSON LLP								
	Address					City	Province	Postal Code	
	40 KING STREET WEST, SUITE 5800					TORONTO	ON	M5H 3S1	
Type of Search	Business Debtor								
Search Conducted On	SCOTCH & SODA CANADA INC.								
File Currency	10APR 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	756911259	2	3	5	8	25OCT 2024			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number		Registered Under	Registration Period	
756911259		002	002		20191025 1130 1862 0664				
Individual Debtor	Date of Birth		First Given Name		Initial		Surname		
Business Debtor	Business Debtor Name						Ontario Corporation Number		
	Address				City	Province	Postal Code		
	N CENTER CIRCLE, SUITE 600								
Individual Debtor	Date of Birth		First Given Name		Initial		Surname		
Business Debtor	Business Debtor Name						Ontario Corporation Number		
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								
	Address				City	Province	Postal Code		
Type of Search	Business Debtor								
Search Conducted On	SCOTCH & SODA CANADA INC.								
File Currency	10APR 2023								
	File Number	Family	of Families	Page	of Pages				
	756911259	2	3	6	8				
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number		Registered Under		
		001	1		20230411 1306 6083 5314				
Record Referenced	File Number		Page Amended	No Specific Page Amended	Change Required		Renewal Years	Correct Period	
	756911259			X	D ASSGNMT				

Reference Debtor/ Transferor	First Given Name		Initial	Surname					
	Business Debtor Name SCOTCH & SODA CANADA INC.								
Other Change	Other Change								
Reason / Description	Reason / Description								
Debtor/ Transferee	Date of Birth	First Given Name		Initial	Surname				
	Business Debtor Name				Ontario Corporation Number				
	Address			City	Province	Postal Code			
Assignor Name	Assignor Name PNC BANK CANADA BRANCH								
	Secured Party, lien claimant, assignee S&S LENDER LLC								
Secured Party	Address			City	Province	Postal Code			
	240 MADISON AVENUE			NEW YORK	NY	10016			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make		Model		V.I.N.			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant ESC CORPORATE SERVICES LTD. (CSC)								
	Address				City		Province	Postal Code	
445 KING STREET WEST, 4TH FL				TORONTO		ON	M5V 1K4		
Type of Search	Business Debtor								
Search Conducted On	SCOTCH & SODA CANADA INC.								
File Currency	10APR 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	787770468	3	3	7	8	PERPETUAL			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number		Registered Under	Registration Period	
787770468		001	1		20221021 1302 9234 5079		P PPSA	99	
Individual Debtor	Date of Birth	First Given Name		Initial	Surname				
Business Debtor	Business Debtor Name SCOTCH & SODA CANADA INC.				Ontario Corporation Number				
	Address			City	Province	Postal Code			
	37 EAST 18TH STREET, FLOOR 10			NEW YORK	NY	10003			
Individual Debtor	Date of Birth	First Given Name		Initial	Surname				

Business Debtor	Business Debtor Name				Ontario Corporation Number				
	PNC BANK CANADA BRANCH								
	Address			City	Province	Postal Code			
	130 KING STREET WEST, SUITE 2140			TORONTO	ON	M5X 1E4			
Secured Party	Secured Party / Lien Claimant								
	PNC BANK CANADA BRANCH								
	Address			City	Province	Postal Code			
	130 KING STREET WEST, SUITE 2140			TORONTO	ON	M5X 1E4			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
				X	X				
Motor Vehicle Description	Year	Make			Model		V.I.N.		
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								
	BENNETT JONES LLP (LOBO/JS)								
	Address			City	Province	Postal Code			
	3400-1 FIRST CANADIAN PLACE			TORONTO	ON	M5X 1A4			
Type of Search	Business Debtor								
Search Conducted On	SCOTCH & SODA CANADA INC.								
File Currency	10APR 2023								
	File Number	Family	of Families	Page		of Pages			
	787770468	3	3	8		8			
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		001	1		20230411 1357 6083 5315				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required			Renewal Years	Correct Period	
	787770468		X	D ASSGNMT					
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
	SCOTCH & SODA CANADA INC.								
Other Change	Other Change								
Reason / Description	Reason / Description								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name						Ontario Corporation Number		
	Address			City	Province	Postal Code			
	Assignor Name								

Assignor Name	PNC BANK CANADA BRANCH								
Secured Party	Secured party, lien claimant, assignee								
	S&S LENDER LLC								
	Address				City		Province	Postal Code	
	240 MADISON AVENUE				NEW YORK		NY	10016	
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model			V.I.N.	
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								
	ESC CORPORATE SERVICES LTD. (CSC)								
	Address				City		Province	Postal Code	
	445 KING STREET WEST, 4TH FL				TORONTO		ON	M5V 1K4	

LAST PAGE

Note: All pages have been returned.

This is **Exhibit “F”** referred to in the affidavit of Filip Tufvesson, affirmed before me by videoconference on May 11, 2023 in accordance with O.Reg. 431/20: Administering Oath or Declaration Remotely. The deponent was in the City of New York, in the State of New York and I was located in the City of Toronto in the Province of Ontario



.....
A Commissioner For Taking Affidavits

Commissioner Name: Monique Sassi
Law Society of Ontario Number: 63638L



- Web Page ID: WEnqResult
- System Date: 11APR2023
- Last Modified: April 02, 2023

Note: All pages have been returned.

Type of Search	Business Debtor								
Search Conducted On	SCOTCH & SODA RETAIL CANADA INC.								
File Currency	10APR 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	725827581	1	2	1	6	22MAR 2027			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
725827581		001	3		20170322 1409 1590 0111	P PPSA	10		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	SCOTCH & SODA RETAIL CANADA INC.								
	Address				City	Province	Postal Code		
	JACOBUS SPIJKERDREEF 20-24				2132 PZ HOOFDDORP				
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	ING BANK N.V., AS SECURITY AGENT								
	Address				City	Province	Postal Code		
	BIJLMERPLEIN 888, 1102 MG, AMSTERDAM				THE NETHERLANDS				
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X		X	X				
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
	A SECURITY INTEREST IS TAKEN IN ALL INVENTORY, ALL ACCOUNTS RELATED TO SUCH INVENTORY AND ALL GENERAL INTANGIBLES, INSTRUMENTS (INCLUDING, WITHOUT LIMITATION, PROMISSORY NOTES), CHATTEL PAPER								
Registering Agent	Registering Agent								
	GOODMANS LLP (DD/MB)								
	Address				City	Province	Postal Code		
	3400-333 BAY STREET, BAY ADELAIDE CENTRE				TORONTO	ON	M5H 2S7		
Type of Search	Business Debtor								
Search Conducted On	SCOTCH & SODA RETAIL CANADA INC.								
File Currency	10APR 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	725827581	1	2	2	6	22MAR 2027			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
725827581		002	3		20170322 1409 1590 0111				

Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address					City	Province	Postal Code	
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address					City	Province	Postal Code	
Secured Party	Secured Party / Lien Claimant								
Address					City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
	(WHETHER TANGIBLE OR ELECTRONIC), DOCUMENTS AND ANY OTHER CONTRACT RIGHTS AND SUPPORTING OBLIGATIONS, IN EACH CASE, RELATED TO SUCH INVENTORY OR ACCOUNTS, TOGETHER WITH ALL BOOKS, RECORDS, WRITINGS,								
Registering Agent	Registering Agent								
Address					City	Province	Postal Code		
Type of Search	Business Debtor								
Search Conducted On	SCOTCH & SODA RETAIL CANADA INC.								
File Currency	10APR 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	725827581	1	2	3	6	22MAR 2027			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
725827581		003	3		20170322 1409 1590 0111				
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address					City	Province	Postal Code	
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address					City	Province	Postal Code	
Secured Party	Secured Party / Lien Claimant								

	Address					City	Province	Postal Code	
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model		V.I.N.		
General Collateral Description	General Collateral Description								
	DATA BASES, INFORMATION, MATERIALS OR OTHER PROPERTY RELATING TO ANY OF THE FOREGOING.								
Registering Agent	Registering Agent								
	Address					City	Province	Postal Code	
Type of Search	Business Debtor								
Search Conducted On	SCOTCH & SODA RETAIL CANADA INC.								
File Currency	10APR 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	756911277	2	2	4	6	25OCT 2024			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule		Registration Number	Registered Under	Registration Period	
756911277		001	002			20191025 1130 1862 0665	P PPSA	5	
Individual Debtor	Date of Birth		First Given Name			Initial		Surname	
Business Debtor	Business Debtor Name						Ontario Corporation Number		
	SCOTCH & SODA RETAIL CANADA INC.								
	Address				City	Province	Postal Code		
	C/O SUN CAPITAL PARTNERS, INC., 5200 TOW				BOCA RATON	FL	33486		
Individual Debtor	Date of Birth		First Given Name			Initial		Surname	
Business Debtor	Business Debtor Name						Ontario Corporation Number		
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	PNC BANK, NATIONAL ASSOCIATION, AS AGENT								
	Address					City	Province	Postal Code	
	1600 MARKET STREET					PHILADELPHIA	PA	19103	
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X		X	X				
Motor Vehicle Description	Year	Make			Model		V.I.N.		
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								

	MILLER THOMSON LLP								
	Address					City	Province	Postal Code	
	40 KING STREET WEST, SUITE 5800					TORONTO	ON	M5H 3S1	
Type of Search	Business Debtor								
Search Conducted On	SCOTCH & SODA RETAIL CANADA INC.								
File Currency	10APR 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	756911277	2	2	5	6	25OCT 2024			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number		Registered Under	Registration Period	
756911277		002	002		20191025 1130 1862 0665				
Individual Debtor	Date of Birth		First Given Name		Initial		Surname		
Business Debtor	Business Debtor Name						Ontario Corporation Number		
	Address				City	Province	Postal Code		
	N CENTER CIRCLE, SUITE 600								
Individual Debtor	Date of Birth		First Given Name		Initial		Surname		
Business Debtor	Business Debtor Name						Ontario Corporation Number		
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								
	Address				City	Province	Postal Code		
Type of Search	Business Debtor								
Search Conducted On	SCOTCH & SODA RETAIL CANADA INC.								
File Currency	10APR 2023								
	File Number	Family	of Families	Page	of Pages				
	756911277	2	2	6	6				
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number		Registered Under		
		001	1		20230411 1359 6083 5316				
Record Referenced	File Number		Page Amended	No Specific Page Amended	Change Required		Renewal Years	Correct Period	
	756911277			X	D ASSGNMT				

Reference Debtor/ Transferor	First Given Name		Initial		Surname					
	Business Debtor Name SCOTCH & SODA RETAIL CANADA INC.									
Other Change	Other Change									
Reason / Description	Reason / Description									
Debtor/ Transferee	Date of Birth	First Given Name			Initial		Surname			
	Business Debtor Name						Ontario Corporation Number			
	Address				City		Province	Postal Code		
Assignor Name	Assignor Name PNC BANK, NATIONAL ASSOCIATION, AS AGENT									
Secured Party	Secured party, lien claimant, assignee S&S LENDER LLC									
	Address				City		Province	Postal Code		
	240 MADISON AVENUE				NEW YORK		NY	10016		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date	
Motor Vehicle Description	Year	Make			Model			V.I.N.		
General Collateral Description	General Collateral Description									
Registering Agent	Registering Agent or Secured Party/ Lien Claimant ESC CORPORATE SERVICES LTD. (CSC)									
	Address					City		Province	Postal Code	
	445 KING STREET WEST, 4TH FL					TORONTO		ON	M5V 1K4	

LAST PAGE

Note: All pages have been returned.

This is **Exhibit "G"** referred to in the affidavit of Filip Tufvesson, affirmed before me by videoconference on May 11, 2023 in accordance with O.Reg. 431/20: Administering Oath or Declaration Remotely. The deponent was in the City of New York, in the State of New York and I was located in the City of Toronto in the Province of Ontario



.....
A Commissioner For Taking Affidavits

Commissioner Name: Monique Sassi
Law Society of Ontario Number: 63638L

Business Debtor - "SCOTCH & SODA CANADA INC."

Search Date and Time: April 11, 2023 at 11:35:09 am Pacific time
Account Name: Not available.
Folio Number: 24838765

TABLE OF CONTENTS

5 Matches in 3 Registrations in Report

Exact Matches: 3 (*)

Total Search Report Pages: 11

	Base Registration	Base Registration Date	Debtor Name	Page
1	894295J	March 22, 2017	* SCOTCH & SODA CANADA INC SCOTCH & SODA RETAIL CANADA INC	2
2	870592L	November 4, 2019	* SCOTCH & SODA CANADA INC SCOTCH & SODA RETAIL CANADA INC	5
3	160482P	October 25, 2022	* SCOTCH & SODA CANADA INC.	9

Base Registration Number: 894295J

Registration Description:	PPSA SECURITY AGREEMENT
Act:	PERSONAL PROPERTY SECURITY ACT
Base Registration Date and Time:	March 22, 2017 at 2:27:46 pm Pacific time
Current Expiry Date and Time:	March 22, 2027 at 11:59:59 pm Pacific time Expiry date includes subsequent registered renewal(s)
Trust Indenture:	No

CURRENT REGISTRATION INFORMATION

(as of April 11, 2023 at 11:35:09 am Pacific time)

Secured Party Information

ING BANK NV

Address

BIJLMERPLEIN 888 1102 MG
AMSTERDAM
Netherlands

Debtor Information

SCOTCH & SODA CANADA INC

Address

JACOBUS SPIJKERDREEF 20-24
AMSTERDAM
Netherlands

**SCOTCH & SODA RETAIL CANADA
INC**

Address

JACOBUS SPIJKERDREEF 20-24
AMSTERDAM
Netherlands

Vehicle Collateral

None

General Collateral

Base Registration General Collateral:

A SECURITY INTEREST IS TAKEN IN ALL INVENTORY, ALL ACCOUNTS RELATED TO SUCH INVENTORY AND ALL GENERAL INTANGIBLES, INSTRUMENTS, (INCLUDING, WITHOUT LIMITATION, PROMISSORY NOTES), CHATTEL PAPER (WHETHER TANGIBLE OR ELECTRONIC), DOCUMENTS AND ANY OTHER CONTRACT RIGHTS AND SUPPORTING OBLIGATIONS, IN EACH CASE, RELATED TO SUCH ,INVENTORY OR ACCOUNTS, TOGETHER WITH ALL BOOKS, RECORDS, WRITINGS, DATA BASES, INFORMATION, MATERIALS OR OTHER PROPERTY RELATING TO ANY OF THE FOREGOING. TERMS USED IN THIS GENERAL COLLATERAL DESCRIPTION WHICH ARE DEFINED IN THE PERSONAL PROPERTY SECURITY ACT (BRITISH COLUMBIA) SHALL HAVE THE MEANINGS SPECIFIED IN THAT ACT, UNLESS THE CONTEXT OTHERWISE INDICATES. THE COMPLETE ADDRESS OF THE SECURED PARTY IS ING BANK NV, AS SECURITY AGENT, BIJLMERPLEIN 888 1102 MG AMSTERDAM NETHERLANDS.

Original Registering Party

MLT AIKINS LLP

Address

355 BURRARD STREET STE 1800
VANCOUVER BC
V6C 2G8 Canada

HISTORY

(Showing most recent first)

AMENDMENT

Registration Date and Time: March 23, 2017 at 3:46:08 pm Pacific time
Registration Number: 897237J
Description: THE FULL ADDRESS FOR THE DEBTOR IS: JACOBUS SPIJKERDREEF 20-24 2132 PZ HOOFFDORP NETHERLANDS

Debtor Information

SCOTCH & SODA CANADA INC

ADDRESS CHANGED

Address

JACOBUS SPIJKERDREEF 20-24
AMSTERDAM
Netherlands

SCOTCH & SODA RETAIL CANADA INC

ADDRESS CHANGED

Address

JACOBUS SPIJKERDREEF 20-24
AMSTERDAM
Netherlands

Registering Party Information

MLT AIKINS LLP

Address

355 BURRARD ST STE 1800
VANCOUVER BC
V6C 2G8 Canada

Base Registration Number: 870592L

Registration Description:	PPSA SECURITY AGREEMENT
Act:	PERSONAL PROPERTY SECURITY ACT
Base Registration Date and Time:	November 4, 2019 at 6:47:50 am Pacific time
Current Expiry Date and Time:	November 4, 2024 at 11:59:59 pm Pacific time Expiry date includes subsequent registered renewal(s)
Trust Indenture:	No

CURRENT REGISTRATION INFORMATION

(as of April 11, 2023 at 11:35:09 am Pacific time)

Secured Party Information

S&S LENDER LLC

Address

240 MADISON AVENUE
NEW YORK NY
10016 United States of America

Debtor Information

**SCOTCH & SODA RETAIL CANADA
INC**

Address

600 - 5200 TOWN CENTER CIRCLE
BOCA RATON FL
33486 United States of America

SCOTCH & SODA CANADA INC

Address

600 - 5200 TOWN CENTER CIRCLE
BOCA RATON FL
33486 United States of America

Vehicle Collateral

None

General Collateral

Base Registration General Collateral:

SECURITY AGREEMENT ENTERED INTO BY THE DEBTORS IN FAVOUR OF THE SECURED PARTY DATED OCTOBER 31, 2019 (AS MAY BE AMENDED, RESTATED, SUPPLEMENTED, REPLACED OR OTHERWISE MODIFIED FROM TIME TO TIME, THE \SECURITY AGREEMENT\). ALL CAPITALIZED TERMS USED BUT NOT DEFINED HEREIN ARE AS DEFINED IN ,THE SECURITY AGREEMENT. (A) ALL \CREDIT CARD RECEIVABLES\; (B) ALL OTHER \RECEIVABLES\ TO THE EXTENT (X) SUCH \RECEIVABLES\ ARE OWING FROM A \CUSTOMER\ THAT IS ORGANIZED UNDER THE LAWS OF THE UNITED STATES OR CANADA (OR ANY POLITICAL SUBDIVISION OF EITHER THE UNITED ,STATES OR CANADA), (Y) THE INVOICES ISSUED WITH RESPECT TO SUCH \RECEIVABLES\ WAS ISSUED TO THE APPLICABLE \CUSTOMER\ AT AN ADDRESS LOCATED IN THE UNITED STATES OR CANADA, AND/OR (Y) TO THE EXTENT SUCH \RECEIVABLE\ ARISES FROM A SALE, ASSIGNMENT, OR OTHER TRANSFER OF \INVENTORY\, SUCH \INVENTORY\ WAS SHIPPED/DELIVERED TO THE APPLICABLE ,\CUSTOMER\ AT A LOCATION IN THE UNITED STATES OR CANADA; (C) ALL \INVENTORY\ LOCATED IN THE UNITED STATES OR CANADA; (D) ALL OF THE \DEBTORS\ RIGHT, TITLE AND INTEREST IN AND TO, WHETHER NOW OWNED OR HEREAFTER ACQUIRED AND WHEREVER LOCATED, (I) ITS RESPECTIVE GOODS AND OTHER PROPERTY INCLUDING, BUT NOT LIMITED TO, ALL ,MERCHANDISE RETURNED OR REJECTED BY \CUSTOMERS\, RELATING TO OR SECURING ANY OF THE \RECEIVABLES\; (II) ALL OF THE \DEBTORS\ RIGHTS AS A CONSIGNOR, A CONSIGNEE, AN UNPAID VENDOR, MECHANIC, ARTISAN, OR OTHER LIENOR, INCLUDING STOPPAGE IN TRANSIT, SETOFF, DETINUE, REPLEVIN, RECLAMATION, REVENDICATION AND REPURCHASE IN RESPECT OF THE ,\INVENTORY\ OR \RECEIVABLES\; (III) ALL ADDITIONAL AMOUNTS DUE TO THE \DEBTORS\ FROM ANY \CUSTOMER\ RELATING TO THE \INVENTORY\ OR \RECEIVABLES\; (IV) OTHER PROPERTY, INCLUDING WARRANTY CLAIMS, RELATING TO ANY GOODS CONSTITUTING \COLLATERAL\; (V) ALL OF THE \DEBTORS\ CONTRACT RIGHTS, RIGHTS OF PAYMENT WHICH HAVE BEEN EARNED ,UNDER A CONTRACT RIGHT, INSTRUMENTS (INCLUDING PROMISSORY NOTES), \DOCUMENTS\ (INCLUDING WAREHOUSE RECEIPTS AND BILLS OF LADING), INTANGIBLES (EXCLUDING IN ALL CASES ANY \INTELLECTUAL PROPERTY\), GENERAL INTANGIBLES (EXCLUDING IN ALL CASES ANY \INTELLECTUAL PROPERTY\), PAYMENT INTANGIBLES, AND CHATTEL PAPER (INCLUDING IN THE ,CASE OF ANY CHATTEL PAPER GOVERNED BY THE PPSA (AS IN EFFECT IN ANY PROVINCE OR TERRITORY IN CANADA WHERE ELECTRONIC CHATTEL PAPER IS INCLUDED UNDER THE PPSA AS IN EFFECT IN SUCH PROVINCE OR TERRITORY (AS APPLICABLE), ELECTRONIC CHATTEL PAPER)), IN EACH CASE RELATING TO SUCH \INVENTORY\ OR \RECEIVABLES\; (VI) ALL LETTERS OF CREDIT AND LETTER OF ,CREDIT RIGHTS (WHETHER OR NOT THE RESPECTIVE LETTER OF CREDIT IS EVIDENCED BY A WRITING) RELATING TO SUCH \INVENTORY\ OR \RECEIVABLES\; (VII) ALL DEPOSIT AND OTHER ACCOUNTS AND CASH AND CASH EQUIVALENTS (OTHER THAN (I) \EXCLUDED ACCOUNTS\, AND (II) ANY CASH AND/OR CASH EQUIVALENTS PLEDGED OR DEPOSITED AS CASH COLLATERAL WITH ,RESPECT TO ANY \INDEBTEDNESS\ OR OTHER OBLIGATIONS TO THE EXTENT PERMITTED BY SECTION 7.2 OF THE \CREDIT AGREEMENT\); AND (X) ALL SUPPORTING OBLIGATIONS IN RESPECT OF ANY OF THE FOREGOING OR ANY ASSETS DESCRIBED IN (A) THROUGH (C) ABOVE; (E) ALL OF THE \DEBTORS\ LEDGER SHEETS, LEDGER CARDS, FILES, CORRESPONDENCE, CORPORATE OR

BUSINESS RECORDS, BOOKS OF ACCOUNT, BUSINESS PAPERS, COMPUTERS, COMPUTER SOFTWARE (OWNED BY THE \DEBTORS\ OR IN WHICH IT HAS AN INTEREST), COMPUTER PROGRAMS, TAPES, DISKS AND DOCUMENTS RELATING TO (A) THROUGH (D) ABOVE; AND (F) ALL PROCEEDS AND PRODUCTS OF (A) THROUGH (E) ABOVE IN WHATEVER ,FORM, INCLUDING, BUT NOT LIMITED TO: DEPOSIT ACCOUNTS (WHETHER OR NOT COMPRISED SOLELY OF PROCEEDS BUT EXCLUDING CASH AND CASH EQUIVALENTS CONSTITUTING IDENTIFIABLE CASH PROCEEDS OF ANY \DUTCH FACILITIES SEPARATE COLLATERAL\) (OTHER THAN \EXCLUDED ACCOUNTS\), CERTIFICATES OF DEPOSIT, INSURANCE PROCEEDS (INCLUDING HAZARD, FLOOD, AND CREDIT ,INSURANCE, AND BUSINESS INTERRUPTION INSURANCE), NEGOTIABLE INSTRUMENTS AND OTHER INSTRUMENTS FOR THE PAYMENT OF MONEY, PAYMENT INTANGIBLES, CHATTEL PAPER, SECURITY AGREEMENTS, DOCUMENTS, EMINENT DOMAIN PROCEEDS, CONDEMNATION PROCEEDS AND TORT CLAIM PROCEEDS, PROVIDED THAT, THE PROCEEDS OF BUSINESS INTERRUPTION INSURANCE ,RECEIVED AT ANY PARTICULAR TIME SHALL ONLY CONSTITUTE \COLLATERAL\ IF, AT THE TIME SUCH PROCEEDS OF BUSINESS INTERRUPTION INSURANCE ARE RECEIVED, THE \UNDRAWN AVAILABILITY\ OF \BORROWERS\ IS LESS THAN THE MINIMUM \UNDRAWN AVAILABILITY\ REQUIRED TO BE MAINTAINED UNDER SECTION 6.5 OF THE \CREDIT AGREEMENT\,IN WHICH CASE SUCH BUSINESS INTERRUPTION ,PROCEEDS SHALL CONSTITUTE \COLLATERAL\ TO THE EXTENT (BUT ONLY TO THE EXTENT) OF SUCH DEFICIT OF \BORROWERS\ ACTUAL \UNDRAWN AVAILABILITY\ AT SUCH TIME AS COMPARED TO SUCH MINIMUM \UNDRAWN AVAILABILITY\ AT SUCH TIME, AND ANY BUSINESS INTERRUPTION PROCEEDS RECEIVED AT SUCH TIME IN EXCESS OF SUCH DEFICIT (IF ANY) SHALL BE \DUTCH FACILITIES ,SEPARATE COLLATERAL\. THE FULL ADDRESS OF DEBTOR D0001 AND D0002 IS: C/O SUN CAPITAL PARTNERS, INC., 600 - 5200 TOWN CENTER CIRCLE, BOCA RATON, FLORIDA, 33486.

Original Registering Party

MILLER THOMSON LLP

Address

400 - 725 GRANVILLE STREET
VANCOUVER BC
V7Y 1G5 Canada

HISTORY

(Showing most recent first)

AMENDMENT - SECURED PARTIES AMENDED

Registration Date and Time: April 6, 2023 at 3:50:33 pm Pacific time
Registration Number: 460423P
Description:

Secured Party Information

S&S LENDER LLC

ADDED

Address

240 MADISON AVENUE
NEW YORK NY
10016 United States of America

PNC BANK, NATIONAL ASSOCIATION, AS AGENT

DELETED

Address

1600 MARKET STREET
PHILADELPHIA PA
19103 United States of America

Registering Party Information

ESC CORPORATE SERVICES LTD.

Address

201 1325 POLSON DR
VERNON BC
V1T 8H2 Canada

Base Registration Number: 160482P

Registration Description:	PPSA SECURITY AGREEMENT
Act:	PERSONAL PROPERTY SECURITY ACT
Base Registration Date and Time:	October 25, 2022 at 7:58:59 am Pacific time
Current Expiry Date and Time:	Never
Trust Indenture:	No

CURRENT REGISTRATION INFORMATION

(as of April 11, 2023 at 11:35:09 am Pacific time)

Secured Party Information

S&S LENDER LLC

Address

240 MADISON AVENUE
NEW YORK NY
10016 United States of America

Debtor Information

SCOTCH & SODA CANADA INC.

Address

37 EAST 18TH STREET, FLOOR 10
NEW YORK NY
10003 United States of America

Vehicle Collateral

None

General Collateral

Base Registration General Collateral:

All of the Debtor's right, title and interest in and to the account maintained by the Debtor at the Secured Party's branch located at 130 King Street West, Suite 2140, Toronto, Ontario, M5X 1E4, and all security entitlements of the Debtor with respect thereto, whether now owned or hereafter acquired, including those entries on the records of the issuing institution, and any and all renewals, substitutions, replacements and proceeds thereof and all income, interest and other distributions thereon maintained in the name of the Debtor by the issuing institution.

Original Registering Party

BENNETT JONES LLP (LOBO/JS)

Address

3400-1 FIRST CANADIAN PLACE
TORONTO ON
M5X 1A4 Canada



HISTORY

(Showing most recent first)

AMENDMENT - SECURED PARTIES AMENDED

Registration Date and Time: April 6, 2023 at 4:03:17 pm Pacific time
Registration Number: 460439P
Description:

Secured Party Information

S&S LENDER LLC

ADDED

Address

240 MADISON AVENUE
NEW YORK NY
10016 United States of America

PNC BANK CANADA BRANCH

DELETED

Address

130 KING STREET WEST, SUITE 2140
TORONTO ON
M5X 1E4 Canada

Registering Party Information

ESC CORPORATE SERVICES LTD.

Address

201 1325 POLSON DR
VERNON BC
V1T 8H2 Canada

Similar that were not selected

Debtor Name

SCOTCH & SODA EXPORT BV

SCOTCH & SODA EXPORT BV

SCOTCH & SODA RETAIL BV

SCOTCH & SODA RETAIL BV

This is **Exhibit "H"** referred to in the affidavit of Filip Tufvesson, affirmed before me by videoconference on May 11, 2023 in accordance with O.Reg. 431/20: Administering Oath or Declaration Remotely. The deponent was in the City of New York, in the State of New York and I was located in the City of Toronto in the Province of Ontario



.....
A Commissioner For Taking Affidavits

Commissioner Name: Monique Sassi
Law Society of Ontario Number: 63638L

Business Debtor - "SCOTCH & SODA RETAIL CANADA INC."

Search Date and Time: April 11, 2023 at 11:35:06 am Pacific time
Account Name: Not available.
Folio Number: 24838757

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2 Matches in 2 Registrations in Report

Exact Matches: 2 (*)

Total Search Report Pages: 8

	Base Registration	Base Registration Date	Debtor Name	Page
1	894295J	March 22, 2017	* SCOTCH & SODA RETAIL CANADA INC	2
2	870592L	November 4, 2019	* SCOTCH & SODA RETAIL CANADA INC	5

Base Registration Number: 894295J

Registration Description:	PPSA SECURITY AGREEMENT
Act:	PERSONAL PROPERTY SECURITY ACT
Base Registration Date and Time:	March 22, 2017 at 2:27:46 pm Pacific time
Current Expiry Date and Time:	March 22, 2027 at 11:59:59 pm Pacific time Expiry date includes subsequent registered renewal(s)
Trust Indenture:	No

CURRENT REGISTRATION INFORMATION

(as of April 11, 2023 at 11:35:06 am Pacific time)

Secured Party Information

ING BANK NV

Address

BIJLMERPLEIN 888 1102 MG
AMSTERDAM
Netherlands

Debtor Information

SCOTCH & SODA CANADA INC

Address

JACOBUS SPIJKERDREEF 20-24
AMSTERDAM
Netherlands

**SCOTCH & SODA RETAIL CANADA
INC**

Address

JACOBUS SPIJKERDREEF 20-24
AMSTERDAM
Netherlands

Vehicle Collateral

None

General Collateral

Base Registration General Collateral:

A SECURITY INTEREST IS TAKEN IN ALL INVENTORY, ALL ACCOUNTS RELATED TO SUCH INVENTORY AND ALL GENERAL INTANGIBLES, INSTRUMENTS, (INCLUDING, WITHOUT LIMITATION, PROMISSORY NOTES), CHATTEL PAPER (WHETHER TANGIBLE OR ELECTRONIC), DOCUMENTS AND ANY OTHER CONTRACT RIGHTS AND SUPPORTING OBLIGATIONS, IN EACH CASE, RELATED TO SUCH ,INVENTORY OR ACCOUNTS, TOGETHER WITH ALL BOOKS, RECORDS, WRITINGS, DATA BASES, INFORMATION, MATERIALS OR OTHER PROPERTY RELATING TO ANY OF THE FOREGOING. TERMS USED IN THIS GENERAL COLLATERAL DESCRIPTION WHICH ARE DEFINED IN THE PERSONAL PROPERTY SECURITY ACT (BRITISH COLUMBIA) SHALL HAVE THE MEANINGS SPECIFIED IN THAT ACT, UNLESS THE CONTEXT OTHERWISE INDICATES. THE COMPLETE ADDRESS OF THE SECURED PARTY IS ING BANK NV, AS SECURITY AGENT, BIJLMERPLEIN 888 1102 MG AMSTERDAM NETHERLANDS.

Original Registering Party

MLT AIKINS LLP

Address

355 BARRARD STREET STE 1800
VANCOUVER BC
V6C 2G8 Canada

HISTORY

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Registration Number: 897237J
Description: THE FULL ADDRESS FOR THE DEBTOR IS: JACOBUS SPIJKERDREEF 20-24 2132 PZ HOOFFDDORP NETHERLANDS

Debtor Information

SCOTCH & SODA CANADA INC

ADDRESS CHANGED

Address

JACOBUS SPIJKERDREEF 20-24
AMSTERDAM
Netherlands

SCOTCH & SODA RETAIL CANADA INC

ADDRESS CHANGED

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AMSTERDAM
Netherlands

Registering Party Information

MLT AIKINS LLP

Address

355 BURRARD ST STE 1800
VANCOUVER BC
V6C 2G8 Canada

Base Registration Number: 870592L

Registration Description:	PPSA SECURITY AGREEMENT
Act:	PERSONAL PROPERTY SECURITY ACT
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Trust Indenture:	No

CURRENT REGISTRATION INFORMATION

(as of April 11, 2023 at 11:35:06 am Pacific time)

Secured Party Information

S&S LENDER LLC

Address

240 MADISON AVENUE
NEW YORK NY
10016 United States of America

Debtor Information

**SCOTCH & SODA RETAIL CANADA
INC**

Address

600 - 5200 TOWN CENTER CIRCLE
BOCA RATON FL
33486 United States of America

SCOTCH & SODA CANADA INC

Address

600 - 5200 TOWN CENTER CIRCLE
BOCA RATON FL
33486 United States of America

Vehicle Collateral

None

General Collateral

Base Registration General Collateral:

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Original Registering Party

MILLER THOMSON LLP

Address

400 - 725 GRANVILLE STREET
VANCOUVER BC
V7Y 1G5 Canada

HISTORY

(Showing most recent first)

AMENDMENT - SECURED PARTIES AMENDED

Registration Date and Time: April 6, 2023 at 3:50:33 pm Pacific time
Registration Number: 460423P
Description:

Secured Party Information

S&S LENDER LLC

ADDED

Address

240 MADISON AVENUE
NEW YORK NY
10016 United States of America

PNC BANK, NATIONAL ASSOCIATION, AS AGENT

DELETED

Address

1600 MARKET STREET
PHILADELPHIA PA
19103 United States of America

Registering Party Information

ESC CORPORATE SERVICES LTD.

Address

201 1325 POLSON DR
VERNON BC
V1T 8H2 Canada

Similar that were not selected

Debtor Name

SCOTCH & SODA CANADA INC
SCOTCH & SODA CANADA INC
SCOTCH & SODA CANADA INC.
SCOTCH & SODA EXPORT BV
SCOTCH & SODA EXPORT BV
SCOTCH & SODA RETAIL BV
SCOTCH & SODA RETAIL BV

This is **Exhibit "1"** referred to in the affidavit of Filip Tufvesson, affirmed before me by videoconference on May 11, 2023 in accordance with O.Reg. 431/20: Administering Oath or Declaration Remotely. The deponent was in the City of New York, in the State of New York and I was located in the City of Toronto in the Province of Ontario



.....
A Commissioner For Taking Affidavits

Commissioner Name: Monique Sassi
Law Society of Ontario Number: 63638L



ÉTAT CERTIFIÉ DES DROITS

DEMANDE DE SERVICE: 23-0552052

OBJET DE LA RECHERCHE: SCOTCH & SODA CANADA INC.

Lors de l'établissement d'une fiche nominative, un algorithme de normalisation d'écriture est appliqué au nom sous lequel la fiche est établie. Cela a pour effet de faciliter la consultation du registre et d'uniformiser certaines variantes dans la graphie ou la typographie d'un nom.

Lors de la consultation du registre, ce même algorithme est appliqué au nom faisant l'objet de la recherche. Le résultat révèle alors les inscriptions faites sous le nom issu de l'application de l'algorithme.

DATE DE CERTIFICATION DU REGISTRE:

2023-05-11 12:15

IL N'Y A AUCUNE INSCRIPTION SOUS LE
NOM QUI FAIT L'OBJET DE LA RECHERCHE

***** FIN DE L'ÉTAT CERTIFIÉ *****

Certifié conforme
Christian G. Sirois
Officier de la publicité des droits
personnels et réels mobiliers



DEMANDE DE SERVICE: 23-0552052

2023-05-11

Page 2

INFORMATION SUPPLÉMENTAIRE

OBJET DE LA RECHERCHE: SCOTCH & SODA CANADA INC.

NOM PRÉSENTANT DES SIMILARITÉS

Le registre des droits personnels et réels mobiliers compte des fiches nominatives établies sous les noms suivants qui présentent des similarités avec le nom qui fait l'objet de la recherche. La liste qui suit peut ne pas être exhaustive.

1642 SODAS INC	H2K 3T2
BEC SODA INC	H1P 1A5
BEC SODA INC	H2J 1G5
BEC SODA INC	H2T 2E2
CANADA INC	J4B 4B8
CREME SODA EVENEMENTS INC	G3A 2E5
CREME SODA EVENEMENTS INC	G3A 2T2
EDIFICE CLUB SODA INC	H2X 2S6
FIN SODA INC	H4G 1M9
INDIGO SODA LTD	J7R 4K3
INDIGO SODA LTEE	J7R 4K3
PAUSE SODA INC	J6S 2T1
PAUSE SODA INC	J6S 4S1
SCOTCH FILMS	H2K 3V4
SLICE & SODA	H1Y 1X7
SLICE & SODA	H2Y 2A1
SLICE & SODA	H3K 3G9
SLICE + SODA	H2T 2K8
SLICE + SODA	H2W 1X6
SLICE + SODA	H2Y 2A1
SODA + SLICE	H2V 4A9
SODAS 1642 INC	H2K 3T2

This is **Exhibit "J"** referred to in the affidavit of Filip Tufvesson, affirmed before me by videoconference on May 11, 2023 in accordance with O.Reg. 431/20: Administering Oath or Declaration Remotely. The deponent was in the City of New York, in the State of New York and I was located in the City of Toronto in the Province of Ontario



.....
A Commissioner For Taking Affidavits

Commissioner Name: Monique Sassi
Law Society of Ontario Number: 63638L



ÉTAT CERTIFIÉ DES DROITS

DEMANDE DE SERVICE: 23-0552048

OBJET DE LA RECHERCHE: SCOTCH & SODA RETAIL CANADA INC.

Lors de l'établissement d'une fiche nominative, un algorithme de normalisation d'écriture est appliqué au nom sous lequel la fiche est établie. Cela a pour effet de faciliter la consultation du registre et d'uniformiser certaines variantes dans la graphie ou la typographie d'un nom.

Lors de la consultation du registre, ce même algorithme est appliqué au nom faisant l'objet de la recherche. Le résultat révèle alors les inscriptions faites sous le nom issu de l'application de l'algorithme.

DATE DE CERTIFICATION DU REGISTRE:

2023-05-11 12:15

IL N'Y A AUCUNE INSCRIPTION SOUS LE
NOM QUI FAIT L'OBJET DE LA RECHERCHE

***** FIN DE L'ÉTAT CERTIFIÉ *****

Certifié conforme
Christian G. Sirois
Officier de la publicité des droits
personnels et réels mobiliers



DEMANDE DE SERVICE: 23-0552048

2023-05-11

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INFORMATION SUPPLÉMENTAIRE

OBJET DE LA RECHERCHE: SCOTCH & SODA RETAIL CANADA INC.

NOM PRÉSENTANT DES SIMILARITÉS

Le registre des droits personnels et réels mobiliers compte des fiches nominatives établies sous les noms suivants qui présentent des similarités avec le nom qui fait l'objet de la recherche. La liste qui suit peut ne pas être exhaustive.

1642 SODAS INC	H2K 3T2
AMERICAN APPAREL CANADA RETAIL INC	H2N 2E8
ARCH RETAIL HOLDINGS CANADA INC	
BEC SODA INC	H1P 1A5
BEC SODA INC	H2J 1G5
BEC SODA INC	H2T 2E2
BESTSELLER RETAIL CANADA INC	H2P 1H4
CANADA INC	J4B 4B8
CHANGE OF SCANDINAVIA CANADA RETAIL INC	G6Y 1W2
CHANGE OF SCANDINAVIA CANADA RETAIL INC	G8Y 1W1
CHANGE OF SCANDINAVIA CANADA RETAIL INC	H1H 4S5
CHANGE OF SCANDINAVIA CANADA RETAIL INC	H1M 1W9
CHANGE OF SCANDINAVIA CANADA RETAIL INC	H8N 1X1
CHANGE OF SCANDINAVIA CANADA RETAIL INC	J6A 5N4
CHANGE OF SCANDINAVIA CANADA RETAIL INC	J7A 3T2
CHANGE OF SCANDINAVIA CANADA RETAIL INC	J8T 6G3
COINSTAR AUTOMATED RETAIL CANADA INC	V6C 3R8
COINSTAR AUTOMATED RETAIL CANADA INC	V6E 2E9
CREME SODA EVENEMENTS INC	G3A 2E5
CREME SODA EVENEMENTS INC	G3A 2T2
EDIFICE CLUB SODA INC	H2X 2S6
EXTREME RETAIL CANADA INC	L4K 5A7
FIN SODA INC	H4G 1M9
GA RETAIL CANADA ULC	
GSM CANADA RETAIL INC	
GSM CANADA RETAIL INC	M5X 1B8
GUESS CANADA RETAIL INC	H1Z 4K2
GUESS CANADA RETAIL INC	H3N 1X7
INDIGO SODA LTD	J7R 4K3
INDIGO SODA LTEE	J7R 4K3
LUXOTTICA RETAIL CANADA INC	M5L 1B9
PAUSE SODA INC	J6S 2T1
PAUSE SODA INC	J6S 4S1
SCOTCH FILMS	H2K 3V4
SLICE & SODA	H1Y 1X7



DEMANDE DE SERVICE: 23-0552048

2023-05-11

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SLICE & SODA	H2Y 2A1
SLICE & SODA	H3K 3G9
SLICE + SODA	H2T 2K8
SLICE + SODA	H2W 1X6
SLICE + SODA	H2Y 2A1
SODA + SLICE	H2V 4A9
SODAS 1642 INC	H2K 3T2
SYSTECH RETAIL SYSTEMS CANADA INC	L4Z 1R9
URBN CANADA RETAIL INC	V6E 2E9
VENATOR GROUP CANADA RETAIL LTD	M9M 1L5

This is **Exhibit "K"** referred to in the affidavit of Filip Tufvesson, affirmed before me by videoconference on May 11, 2023 in accordance with O.Reg. 431/20: Administering Oath or Declaration Remotely. The deponent was in the City of New York, in the State of New York and I was located in the City of Toronto in the Province of Ontario



.....
A Commissioner For Taking Affidavits

Commissioner Name: Monique Sassi
Law Society of Ontario Number: 63638L

JONES DAY

CONCERTGEBOUWPLEIN 20 • 1071 LN AMSTERDAM • THE NETHERLANDS
TELEPHONE: +31 20 305 4200 • FACSIMILE: +31 20 305 4201

VIA E-MAIL

FLIP VAN DER DRIFT

DIRECT: +31.20.3054214

E-MAIL: FVANDERDRIFT@JONESDAY.COM

From:

Scotch & Soda Export B.V. and/or Scotch & Soda B.V., in bankruptcy (*faillissement*)
Represented by mr. E.J. Schuurs and mr. J.R Berkenbosch as trustees (*curatoren*)
Postbus 51204, 1007 EE Amsterdam, the Netherlands

To:

Scotch & Soda Retail Canada Inc. and Scotch & Soda Canada Inc.
Attn. Karis Durmer (durmer.karis@scotch-soda.com), Filip Tufvesson (tufvesson.filip@scotch-soda.com) and Thomas Bervoets (bervoets.thomas@scotch-soda.com), as managing directors

Copy:

NautaDutilh N.V., as Dutch legal counsel of S&S Operations LLC and S&S Brand Holdings LLC
(the “**Purchaser**”)
Attn. Marc Orval (marc.orval@nautadutilh.com); Catrien Rozeman
(catrien.rozeman@nautadutilh.com)

Re: termination notice under (i) the Dutch law governed limited risk franchise agreement dated 4 June 2019 between Scotch & Soda Export B.V. and Scotch & Soda Retail Canada Inc. as franchisee (the “Franchise Agreement”) and (ii) the Dutch law governed limited risk distribution agreement dated 15 April 2021 between Scotch & Soda Export B.V. and/or Scotch & Soda B.V. and Scotch & Soda Canada Inc. as distributor (the “Distribution Agreement” and together with the Franchise Agreement: the “Agreements”)

2 May 2023

Dear Sirs, Madams,

On behalf of Scotch & Soda B.V. and/or Scotch & Soda Export B.V., as the case may be (in bankruptcy), represented by the court appointed Dutch trustees (“**Scotch & Soda**”), we ask your attention for the following in connection with the Agreements, attached hereto as **Attachment 1**.

On 20 March 2023, Scotch & Soda was declared bankrupt. Effective as of 1 April 2023 (the “**Effective Date**”), we have sold all IP rights to Purchaser as a result of which we are no longer in a position to fulfil the obligations under the Agreements. Please be informed that the Dutch trustees consider the Agreements no longer in place with effect as of the Effective Date and the Agreements have not been, and will not be, continued (*geen gestanddoening*) as a result of the sale in bankruptcy of all assets of Scotch & Soda, including any IP, to the Purchaser.

To the extent necessary, as a result of the (in)direct change of control over Scotch & Soda Canada Inc. and Scotch & Soda Retail Canada Inc. and/or (in)direct change of the business (as the case may be) we

ADVOCATEN EN NOTARISSEN / ATTORNEYS AT LAW AND CIVIL-LAW NOTARIES
REGISTERED WITH THE CHAMBER OF COMMERCE UNDER NUMBER 57062587

AMSTERDAM • ATLANTA • BEIJING • BOSTON • BRISBANE • BRUSSELS • CHICAGO • CLEVELAND • COLUMBUS • DALLAS
DETROIT • DUBAI • DÜSSELDORF • FRANKFURT • HONG KONG • HOUSTON • IRVINE • LONDON • LOS ANGELES • MADRID
MELBOURNE • MEXICO CITY • MIAMI • MILAN • MINNEAPOLIS • MUNICH • NEW YORK • PARIS • PERTH • PITTSBURGH
SAN DIEGO • SAN FRANCISCO • SÃO PAULO • SHANGHAI • SILICON VALLEY • SINGAPORE • SYDNEY • TAIPEI • TOKYO • WASHINGTON

Page 2

hereby give you on behalf of Scotch & Soda, with immediate effect, notice of termination of the Agreements in accordance with clause 17.1, 17.2 and 18.2 of the Franchise Agreement and clause 15.1, 15.2 and 16.2 of the Distribution Agreement.

For brevity's sake, we refer to the content of the Agreements in respect of the consequences of this termination.

[Signature page follows]

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Very truly yours, on behalf of the Dutch trustees,

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

mr. F. van der Drift, lawyer (*advocaat*)

Annex 1

Agreements

SCOTCH & SODA

LIMITED RISK DISTRIBUTION AGREEMENT

THE UNDERSIGNED:

1. **Scotch & Soda Export B.V.** and/or **Scotch & Soda B.V.** (registered in the Netherlands with number 34260036 and number 63425092 respectively), with registered office at Jacobus Spijkerdreef 20, 2132 PZ Hoofddorp, the Netherlands (each severally, not jointly: “**Scotch & Soda**”); and
2. **Scotch & Soda Canada Inc** (registered in Canada with the number BC1108658), whose registered office is at 1066 West Hastings Street 2600, Vancouver, British Columbia, Canada (the “**Distributor**”);

WHEREAS:

- A. Scotch & Soda and its affiliated companies are engaged in the business of designing, manufacturing, marketing and selling clothing and related products worldwide;
- B. the Parties or their legal predecessors have a longstanding relationship on the sales by the Distributor in the Territory of clothing and accessories designed, produced and/or marketed by or on behalf of Scotch & Soda;
- C. the Parties wish to enter into a limited risk distribution agreement on and subject to the terms and conditions of this agreement whereby the Distributor shall (1) bear no product design, supply, foreign exchange, freight/shipping or warranty risks and (2) only bear limited inventory, market and/or credit/collection risks in relation to the Distribution activities carried out by the Distributor;

HAVE AGREED AS FOLLOWS:

1. Definitions

In this agreement:

“Agreement” means this distribution agreement, including the schedules or annexes;

“Business” means the business of distributing the Products in accordance with this Agreement;

“Collection” means a collection of the Products as determined by Scotch & Soda in its sole discretion for each Season;

“E-commerce” has the meaning as set out in clause 2.2 (c);

SCOTCH & SODA

“Intellectual Property Rights” means any word mark, trade mark, pictorial mark, trade name, logos, designs, copyright, model right, design right, scent, know-how, and all other intellectual property rights connected to or arising from the Products and any and all other intellectual property rights whatsoever of Scotch & Soda and/or its affiliates;

“Key Staff” means at least one dedicated and specialist sales person with a multiyear track record on the sale of products similar to the Products, to be appointed and replaced with the prior approval of Scotch & Soda;

“Net Sales” means revenue from sales of Products less any Product returns;

“Operating Profit” means income from sales of Products excluding any financing income or expenses and extraordinary income or expenses;

“Parties” means Scotch & Soda and the Distributor jointly (and “Party” shall be construed accordingly);

“Products” means Scotch & Soda’s products as offered for sale by Scotch & Soda to the Distributor, being articles of clothing and clothing accessories for men, women and kids, that have been designed, produced and/or marketed by Scotch & Soda, determined by Scotch & Soda in its sole discretion from time to time;

“Retail Concepts” means any retail concepts, including but not limited to franchise stores, shop-in-shops, outlets and (other) retail concepts, in which any of the Products are being offered for sale to the end-consumer;

“Season” means spring/summer or fall/winter of a certain year;

“Selling Season” means the period, as indicated by Scotch & Soda at its sole discretion from time to time, during which the Distributor can place orders with Scotch & Soda for a specific Collection;

“Territory” means Canada.

2. Appointment

- 2.1 Scotch & Soda appoints the Distributor as its limited risk distributor of the Products in the Territory.
- 2.2 Notwithstanding clause 2.1 and unless explicitly agreed otherwise in writing, Scotch & Soda will remain entitled to:

SCOTCH & SODA

- (a) own, set-up and/or operate any Retail Concepts in the Territory itself or to grant such rights to any affiliate or third party, whereby Scotch & Soda is entitled to directly or indirectly sell to such Retail Concepts; and
- (b) sell directly or indirectly to any wholesale customer;
- (c) or sell directly or indirectly to any end-consumers in the Territory via mail-order and/or an online webstore ("E-commerce");

and Distributor shall not be entitled to any compensation in relation to any such sales.

- 2.3 Without prior approval of Scotch & Soda, the Distributor is not entitled to directly or indirectly own, set-up and/or operate any Retail Concepts or E-commerce or sell the Products to consumers in any other manner.
- 2.4 If Scotch & Soda decides to sell other products in the Territory or to enlarge or change its range of products, Scotch & Soda is not obliged to propose the Distributor to sell these products as well and Scotch & Soda shall be entitled to distribute such products in the Territory itself or through a third party.
- 2.5 The Distributor acknowledges that all rights and licenses granted to the Distributor hereunder are strictly personal to the Distributor and the Distributor shall not be entitled to assign, subcontract, sub-franchise or otherwise alienate such rights and licenses except with the prior consent of Scotch & Soda. In granting any such consent, Scotch & Soda shall be entitled at its sole discretion to impose such terms and conditions as it considers appropriate.
- 2.6 The Distributor shall not and shall procure that its resellers and affiliates shall not directly or indirectly without Scotch & Soda's prior written consent, make any sales of the Products to any customers outside the Territory.

3. Term and Renewal

- 3.1 The Agreement is entered into for an unlimited duration and effective as from 1 August 2020.
- 3.2 Each Party has the right to terminate the Agreement subject to prior notice taking into account a notice period of at least 6 months prior to the date of termination. The end of the notice period shall coincide with the end of a calendar month.

4. Obligations of the Distributor

- 4.1 The Distributor shall sell the Products in its own name and for its own account. The Distributor shall use its commercial best efforts to sell the Products to customers who can ensure the high-quality level desired by Scotch & Soda for the distribution of the Products in the Territory. The Distributor shall provide at Scotch & Soda's first request a detailed overview of the turnover per customer.

SCOTCH & SODA

- 4.2 Notwithstanding any clause in this Agreement, Scotch & Soda is responsible for the marketing and promotion of the Products in the Territory. Upon request of Scotch & Soda the Distributor may carry out marketing and promotion of the Products in the Territory on behalf of Scotch & Soda but the activities carried out shall remain for the account and risk of Scotch & Soda.
- 4.3 Subject to the terms and conditions of this Agreement and to any directions which Scotch & Soda may from time to time give, the Distributor shall be free to perform its duties hereunder in such manner as he may think fit.
- 4.4 The Distributor shall not make or give any promises, warranties, guarantees or representations concerning the Products other than those contained in this Agreement.
- 4.5 The Distributor shall actively promote and efficiently organise the marketing and sale of the Products in the Territory.
- 4.6 The Distributor shall inform its customers that the Products have been manufactured as per Scotch & Soda's design and guidelines and that the Intellectual Property Rights belong exclusively to Scotch & Soda.
- 4.7 The Distributor shall comply with Scotch & Soda's criteria for internet sales as they apply from time to time. If requested by Scotch & Soda the Distributor shall impose such requirements on its customers.
- 4.8 The Distributor shall make all investments in relation to this Agreement for its own risk and account (regardless whether or not such investments have been requested or approved by Scotch & Soda), without entitlement to contribution or compensation by Scotch & Soda.
- 4.9 The Distributor may return Products to Scotch & Soda for credit against purchase price after discussion with Scotch & Soda.

5. Intellectual Property Rights

- 5.1 The Distributor commits itself to promote the sale of the Products with the Intellectual Property Rights. The Distributor is obliged to use the Intellectual Property Rights only in the manner specified by or approved by Scotch & Soda and the Distributor undertakes to strictly observe any of Scotch & Soda's brand guidelines as may be communicated to the Distributor from time to time. Without prejudice to the foregoing, the Distributor is not permitted to use the Intellectual Property Rights for goods that do not originate from Scotch & Soda.

SCOTCH & SODA

- 5.2 The Distributor acknowledges and confirms that Scotch & Soda is the sole owner of the Intellectual Property Rights.
- 5.3 The Distributor shall adhere to Scotch & Soda's Search Engine Advertisement Guidelines.
- 5.4 For the duration of this Agreement, the Distributor is permitted to include in its own brand name (label) or trade name Scotch & Soda's trademark and/or logo, after having obtained Scotch & Soda's prior approval on the usage thereof. The Distributor shall promptly discontinue any aforementioned use of Scotch & Soda's Intellectual Property Rights upon the termination or expiration of this Agreement.
- 5.5 The Distributor shall refrain from any acts infringing Scotch & Soda's or any affiliated company's trade names, trademarks, domain names or other intellectual property rights. Without prejudice to the foregoing, the Distributor is obliged to leave the Intellectual Property Rights, such as the Scotch & Soda word mark (label), as affixed to the Products, undisturbed and under no circumstances to remove them.
- 5.6 The Distributor agrees not to undertake any activities during the term of this Agreement which in the opinion of Scotch & Soda may be detrimental to the marketing and/or sale of the Products and/or the Intellectual Property Rights.
- 5.7 The Distributor shall not register or attempt to register in its name or that of any other person, firm, entity or corporation any of the Intellectual Property Rights or any other name, trade mark, domain name, or design used in relation to the Business, to acquire any other intellectual property rights concerning such know-how, the Intellectual Property Rights in any country of the world. The Distributor shall always expressly identify itself as a licensee, and not the owner, of the Intellectual Property Rights.
- 5.8 The Distributor shall not, without Scotch & Soda's prior consent, register any company name or trade mark, domain name or make use of any business name incorporating any of the Intellectual Property Rights or other intellectual property rights or other such names or marks or incorporating any similar-sounding name which is confusingly similar to, or unfairly competing with, any of the Intellectual Property Rights or other such property rights of Scotch & Soda.
- 5.9 The Distributor shall not use any trade mark and/or trade name and/or insignia, domain name, design, logo other than the Intellectual Property Rights or any other name or mark notified by Scotch & Soda in operating the Business. The Distributor shall adhere to Scotch & Soda's qualitative criteria for internet sales as they apply from time to time. Scotch & Soda has the exclusive right to use and/or register the main webstore domain names in the territory (i.e. www.scotch-soda.jp, www.scotch-soda.uk etc.). The Distributor's websites should never contain URLs with Scotch & Soda's brand names or misspellings in the domain name (www.Distributor.scotchandsoda.jp), however it is not restricted to use the brand after the Distributor domain name (e.g.

SCOTCH & SODA

www.Distributor.jp/scotchandsoda). If requested by Scotch & Soda the Distributor shall assign a domain name to Scotch & Soda at cost price or amend a domain name according to Scotch & Soda's guidelines. The Distributor shall to the maximum extent possible impose such requirements on its customers. The Distributor is not entitled to offer or sell Products on online marketplaces, including but not limited to Ebay, Alibaba and TaoBao.

- 5.10 If the Distributor becomes aware of any infringement or threatened infringement of any of the Intellectual Property Rights or any other registered property rights or any act of unfair competition or any act likely to impair the goodwill or reputation of/or associated with any of the Intellectual Property Rights, or of any claim asserted by a third party in respect of the use of any of the aforesaid within the Territory, the Distributor shall promptly give Scotch & Soda full particulars of such circumstance.
- 5.11 Scotch & Soda shall at its own expense and responsibility have the conduct of all proceedings relating to the Intellectual Property Rights or any other registered property rights or any other such name, mark or patent and Scotch & Soda shall in its sole discretion decide what action (including an action at law, an arbitral proceeding or an out-of-court settlement) to take, if any, with respect to any infringement of the aforesaid or any claims asserted by any third party in relation thereto.
- 5.12 The Distributor shall provide Scotch & Soda with full assistance and cooperation in any action, claim or proceedings brought or threatened in respect of any of the Intellectual Property Rights or any other registered property rights or any other such intellectual property rights and at the request of Scotch & Soda shall join with Scotch & Soda in such action or proceedings, provided it has a cause of action under the applicable law, it being understood that all reasonable costs incurred in connection with this assistance/actions shall be borne by Scotch & Soda, provided they have been previously approved by Scotch & Soda on a case by case basis.
- 5.13 The Distributor expressly acknowledges and agrees that any and all goodwill arising from the Distributor's use of the Intellectual Property Rights and the carrying on of the Business is solely and exclusively for Scotch & Soda's benefit and Scotch & Soda may at any time call for a confirmatory assignment of that goodwill which the Distributor must immediately execute. Upon expiration or termination of this Agreement no monetary amount shall be assigned as attributable to any goodwill associated with the Distributor's use of the Intellectual Property Rights or as compensation for any expenses related to the introduction to the market or for any investments made by the Distributor.
- 5.14 The Distributor shall inform its customers that the Products have been made for Scotch & Soda and that the Intellectual Property Rights belong exclusively to Scotch & Soda. The Distributor procures that no one shall take any copies thereof without the prior consent of Scotch & Soda.

SCOTCH & SODA

- 5.15 If the Distributor discovers that any of the Intellectual Property Rights in the Territory do not exclusively belong to Scotch & Soda in accordance with this Agreement, the Distributor shall promptly notify Scotch & Soda and perform all necessary acts to establish the transfer or assignment of such rights to Scotch & Soda at Scotch & Soda's request.
- 5.16 The Distributor is obliged to leave the Intellectual Property Rights, such as Scotch & Soda's trademark (label) affixed to the Products, undisturbed and under no circumstances to remove these.
- 5.17 In the event the Distributor breaches any of its obligations under this clause 5, the Distributor shall, without any further action or formality being required, be liable to Scotch & Soda for a promptly due and payable penalty of € 50,000 for each such breach and € 5,000 for each day such breach continues, without prejudice to the right of Scotch & Soda to claim specific performance and/or damages and without prejudice to any other rights that Scotch & Soda may have by virtue of law or this Agreement.

6. Prices, Remuneration and Security

- 6.1 Scotch & Soda shall provide the Distributor with recommended retail prices (including VAT, in local currency of the Territory) for the Products.
- 6.2 For the business carried out in the Territory the Distributor shall receive an arm's length remuneration as set out in Schedule 1.
- 6.3 The Distributor shall order the Products in accordance with this Agreement, Scotch & Soda's instructions and with use of Scotch & Soda's purchase order documents. The Distributor shall separate the orders for the different Products (Denim-Men-Women-Kids) on the order document.

7. Payment

- 7.1 Scotch & Soda shall send its invoices via e-invoicing. The Distributor shall provide Scotch & Soda with a specific email address to which such invoices shall be sent. The invoice shall be deemed received when Scotch & Soda's computer or server shows that the invoice has been sent to the Distributor.
- 7.2 Unless pre-payment or any other form of payment or payment period is agreed, the Distributor shall pay to Scotch & Soda the arm's length purchase price no later than 60 days of the date the invoice was sent to the Distributor, into a bank account designated by, and in accordance with further requirements specified by, Scotch & Soda.

SCOTCH & SODA

- 7.3 All sums payable under this Agreement are in the local currency of the Territory and exclusive of any value added tax or other applicable sales tax which shall (where applicable) be added to the sum in question and where any withholding tax or similar deduction is required to be made, the sum in question shall be paid net of that deduction.
- 7.4 All invoices not paid by the Distributor when due shall bear interest from the due date to the date of actual payment at the rate equal to the lesser of 1% per month or the annual statutory commercial interest rate pursuant to section 6:119a of the Dutch Civil Code.
- 7.5 If the Distributor fails to pay any invoices when due, Scotch & Soda shall be entitled to suspend the performance of its obligations under the Agreement.

8. Cancellation of Orders

- 8.1 An order for the Products cannot be cancelled by the Distributor, unless with Scotch & Soda's prior consent or receipt by Scotch & Soda of the cancellation of an order no later than 10 days of the date of Scotch & Soda's order confirmation.
- 8.2 The Distributor shall pay to Scotch & Soda a compensation of 50% of the total gross order value which shall be payable on demand, notwithstanding the right of Scotch & Soda to claim full compensation of damage, if the Distributor:
- (a) cancels an order for the Products after the expiration of the term set out in clause 8.1;
 - (b) does not entirely or does not in due time accept delivery of an order for the Products.
- 8.3 The Distributor shall indemnify Scotch & Soda in respect of any claim by a third party contracted to perform any part of the Agreement for loss or damage, including future loss, suffered by such third party as a result of late cancellation by the Distributor.

9. Delivery of Products

- 9.1 Scotch & Soda shall deliver the Products to the Distributor on an Ex Works basis (EXW, Incoterms 2010) at Scotch & Soda's warehouse in Hong Kong. Scotch & Soda shall determine the mode of shipment and the carrier of the Products.
- 9.2 Scotch & Soda shall use its commercial best efforts to meet the delivery period agreed between the Parties. However, such delivery periods, including those set out in offers or order confirmations, are targets only, and not deadlines.
- 9.3 A delay beyond the delivery period shall not entitle the Distributor to terminate the Agreement or claim damages, or to suspend or waive any of its obligations under the Agreement.

SCOTCH & SODA

- 9.4 Shipment of the Products shall be at the risk and expense of Scotch & Soda.
- 9.5 If the shipment of the Products cannot go ahead for reasons beyond the influence of either Party, the Products shall be stored at the risk and expense of Scotch & Soda. If the shipment of the Products cannot go ahead for reasons within the influence of Scotch & Soda, the Products shall be stored at the full risk and expense of Scotch & Soda. If the shipment of the Products cannot go ahead for reasons within the influence of the Distributor, the Products shall be stored at the full risk and expense of Scotch & Soda.
- 9.6 The Products are delivered to the Distributor as is. The Distributor is responsible for compliance of the Products with local law, regulations and other requirements.
- 9.7 If delivery of the ordered Products is not made in time by Scotch & Soda due to circumstances beyond the influence of Scotch & Soda including, but not limited to, late delivery of Products to Scotch & Soda due to some direct or indirect involvement of the manufacturer, then the delivery period shall be extended by the length of the delay and the Distributor shall not be entitled to cancel the order or terminate the Agreement for such reason, provided that however, such delay shall not be for a period exceeding 90 days from the original delivery date of Products, in which event the Distributor shall be entitled to cancel the order.
- 9.8 Scotch & Soda is entitled to make partial deliveries of the Products ordered by the Distributor where necessary. Each partial delivery is deemed to be a separate delivery.
- 9.9 The Distributor must accept the Products from Scotch & Soda or from a third party engaged by Scotch & Soda as from the moment that either one of them makes the Products available for delivery to the Distributor.
- 9.10 In the event of differences between (the quantity of) ordered Products and received Products, transport documentation shall be decisive, with the exception of clear mistakes in the transport documents and under the conditions that such mistakes are being notified to Scotch & Soda immediately after delivery.
- 9.11 The Distributor may return Products to Scotch & Soda after discussion with Scotch & Soda.
- 9.12 The Distributor shall check the quality and the quantity of the Products on delivery and is fully responsible for the handling of complaints of the customers, in accordance with clause 12.

10. Retention of Title

- 10.1 All delivered Products remain the property of Scotch & Soda until the Distributor has paid these Products and all related taxes, interests and costs in full. Title of ownership of these Products passes

SCOTCH & SODA

to the Distributor upon payment. The Distributor shall properly care for and insure the Products against any damage or loss during the time the Products remain the property of Scotch & Soda under this clause 10.1.

10.2 The Distributor shall not encumber, lend or otherwise make the Products held under retention of title available to any third party until Scotch & Soda has received payment in full for the Products.

11. Warranties

11.1 Save for changes as announced by Scotch & Soda to the Distributor before delivery of the Products and notwithstanding the exclusions and limitations set out in this clause 11, Scotch & Soda warrants that the Products are substantially in conformity with the sample of each Product provided to the Distributor by Scotch & Soda.

11.2 Warranties given by Scotch & Soda with regard to the Products specifically exclude:

- (a) wash and color fastness;
- (b) worn clothes;
- (c) clothing not cleaned in accordance with cleaning instructions;
- (d) perfume or cosmetics; and
- (e) bathing suits or underpants not being sealed in original sealed packaging.

11.3 Minor differences in the Products including, but not limited to, color, size, finish and other quality standards, shall be accepted by the Distributor and shall not entitle the Distributor to suspend its obligations under the Agreement, to terminate the Agreement or pay a reduced purchase price for the Products.

11.4 If a considerable number of a certain style as part of the delivered Products does not conform to the warranty set out in clause 11.1, the Distributor shall be entitled to return these defective Products to Scotch & Soda at Scotch & Soda's costs. Scotch & Soda shall, at its sole discretion, repair or replace the relevant Products or issue a credit invoice for its net purchase price. The Distributor is not entitled to return any individual defective items of the delivered Products to Scotch & Soda for any reason.

11.5 The Parties shall organize their business in such a way that each of them is able to comply with its respective obligations under applicable law in respect of product safety and recall. The Distributor shall follow up all reasonable instructions given by Scotch & Soda if Scotch and Soda is required or decides, at its reasonable discretion, that (some of) the Products should be taken out of the market, or that customers have to be warned or that any other measures should be taken in the light of any recall or other product safety matters, also if such instructions entail that the Distributor should cease the sale of the Products. If the Distributor is under an obligation to take any action regarding a recall of Products on the basis of any applicable legislation, then the Distributor shall timely inform

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Scotch & Soda in that respect and ask Scotch & Soda for any (further) instructions. The Distributor is not obliged to follow up any of Scotch & Soda's instructions if such instruction would be in violation of any applicable rules or regulations.

12. Complaints

- 12.1 The Distributor shall check the Products promptly upon their delivery, as specified in clause 9.12. The Distributor shall promptly notify Scotch & Soda of any visible defects, failing which the Distributor is deemed to have received the Products free of any visible defects.
- 12.2 The Distributor must also report to Scotch & Soda of any defect or damage to Products provided by Scotch & Soda, any errors in the supply of the Products or services or complaints about any other performance by Scotch & Soda, promptly after such defect or loss is discovered by the Distributor, and in any event by no later than 14 days after delivery of the Products.

13. Liability and Indemnity

- 13.1 Scotch & Soda shall be fully liable for any loss or damage incurred by the Distributor due to Scotch & Soda's breach of the Agreement.
- 13.2 Scotch & Soda shall fully indemnify and hold the Distributor and all of its employees harmless from any and all claims filed by third parties who suffer loss or damage in connection with the performance of the Agreement.
- 13.3 The provisions of this clause 13 shall equally apply to the benefit of all individuals and legal entities engaged by either Party in the performance of the Agreement.

14. Insurance

- 14.1 Scotch & Soda shall take out and maintain at its own costs for the duration of this Agreement comprehensive insurance with a reputable insurer to cover all risks in relation to the operation of the Business and each of the Stores, including without limitation property damage, business interruption, public liability and employers' liability. The Distributor shall not commence to operate the Business until the Distributor has obtained all insurances required thereto.
- 14.2 The Distributor shall not be liable to the Scotch & Soda or any third party for any loss resulting from the performance of the Agreement that is covered, or ought to be covered, by the Distributor's insurance, had the Distributor taken out the required insurance cover. In this respect the Distributor indemnifies Scotch & Soda against any related third-party claim.

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15. Termination

- 15.1 Either Party may terminate this Agreement with immediate effect, without the other Party being entitled to any damages and without affecting the other rights of the terminating Party under the Agreement or by virtue of law, by giving notice to the other Party upon the occurrence of any of the following events:
- (a) if the other Party applies for bankruptcy or a suspension of payments; or
 - (b) if the other Party is declared bankrupt or granted a suspension of payments; or
 - (c) if any event having a similar effect as the events referred to in paragraphs (a) and (b) above occurs with respect to the other Party under the laws of the jurisdiction in which the other Party has its principal office.
- 15.2 Scotch & Soda shall be entitled to suspend and/or terminate this Agreement in whole or in part, with immediate effect, without the Distributor being entitled to claim any damages and without affecting Scotch & Soda's other rights under this Agreement or by virtue of law (including but not limited to any termination rights) if:
- (a) more than 50% of the Distributor's share capital is directly or indirectly transferred to a natural person or legal entity that did not own directly or indirectly at least twenty five percent (25%) of the Distributor's share capital at the date of execution of this Agreement; or any share capital is directly or indirectly transferred to a natural person or legal entity that manufactures or markets products that are, in the sole reasonable discretion of Scotch & Soda, competitive with the Products; or if there is a change in the senior executive management of the Distributor, or control of the Distributor or the Business is directly or indirectly changed in any other manner; or
 - (b) any event takes place involving the Distributor or any direct or indirect shareholder of the Distributor or any affiliate of the Distributor which in Scotch & Soda's sole opinion may adversely affect the reputation or business success of the Distributor or Scotch & Soda and the Distributor does not immediately and adequately remedy its cause upon receipt of a warning from Scotch & Soda; or
 - (c) if the Distributor breaches any material obligation under this Agreement that cannot be remedied or if the Distributor breaches any of its obligations and fails to remedy such breach within 30 days of receipt of a notification of such breach; or
 - (d) an attachment, distress, execution or other process has been initiated in relation to (a substantial part of) any of the Distributor's assets and is not released or discharged within 30 days; or
 - (e) the Distributor fails to comply with any applicable law or regulation in the Territory; or
 - (f) the Distributor acts in conflict with clause 20 (Anti-Bribery) or Scotch & Soda's Code of Conduct in place at the date of this Agreement.

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16. Consequences of Termination

- 16.1 During any notice period or, if applicable, the period starting 3 months before the expiration date, Scotch & Soda at its sole discretion:
- (a) is not obliged to accept any orders for any Collection for which the delivery will take place after the date of termination or expiration of this Agreement;
 - (b) may decrease the quantities of the Products ordered by the Distributor in order for the ordered quantities not to exceed the quantities normally ordered by the Distributor; and
 - (c) shall be entitled to appoint another distributor for the sale of the Products in the Territory provided that such distributor shall only be entitled to collect orders for any Collection for which the delivery to customers within the Territory will take place after the date of termination or expiration of this Agreement or Scotch & Soda shall be entitled to collect such orders itself.
- 16.2 Upon the termination or expiration of this Agreement for any reason:
- (a) Scotch & Soda and the Distributor shall closely co-operate to ensure a smooth handover;
 - (b) any sums owed by the Distributor to Scotch & Soda shall immediately become due and payable as from the date of termination;
 - (c) the Distributor shall immediately cease to sell the Products and to use in any way whatsoever any and all of the Intellectual Property Rights and, at the Distributor's expense, do all such acts and things and execute all such documents as Scotch & Soda shall require to disassociate the Distributor from any claim or interest whatsoever in the Intellectual Property Rights or any part thereof and shall remove any form of communication indicating that the Distributor is a partner of Scotch & Soda, refrain from any action that would or may indicate any (continued) relationship and shall duly and promptly refer to Scotch & Soda any and all enquiries, order, correspondence and the like in relation to the Products;
 - (d) Scotch & Soda shall have the right to cancel any order for the Products previously placed by the Distributor with Scotch & Soda and any confirmation or other acknowledgement of such order issued by Scotch & Soda, if such Products have not been delivered by Scotch & Soda before the date of termination or expiration;
 - (e) Distributor shall at Scotch & Soda's request forthwith assign to Scotch & Soda any sales agreements that the Distributor has concluded with its customers relating to Products that will be delivered and invoiced after the date of termination or expiration of this Agreement; the Distributor shall ensure that the agreements with its customers allow for such assignment; the Distributor shall not be entitled to any compensation with respect to such assignments;
 - (f) Scotch & Soda may at its option repurchase from the Distributor, and the Distributor shall in such case sell to Scotch & Soda, any or all stock of Products, all samples of the Products and any showroom furniture and fixtures, then held by the Distributor, at their fair market value to be determined by Scotch & Soda; Scotch & Soda shall be responsible for arranging transport and insurance and shall bear all associated costs; the Distributor may sell its stock

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- for which it has accepted orders from customers prior to the date of termination or expiration - and in relation to which Scotch & Soda has not exercised its option to repurchase - and in relation thereto and to that extent the provisions of this Agreement shall be fully applicable;
- (g) the Distributor shall transfer or assign to Scotch & Soda, or arrange to have transferred, at the cost of Scotch & Soda, any domain name containing any trade name of Scotch & Soda, or any adaptation thereof, registered or controlled by the Distributor, its affiliated companies or direct or indirect shareholders and all customer data;
 - (h) the Distributor shall return to Scotch & Soda or otherwise dispose of or destroy as per Scotch & Soda's instructions all samples of Products, signs, advertising, promotional or sales material relating to the Products, stationery, invoices, forms, specifications, designs, records, data, furniture, equipment, hardware, packaging, labels, decorative elements and colours, as well as all other materials or information pertaining to or concerning the Products or bearing any of the Intellectual Property Rights and/or shall permit the authorized agents of Scotch & Soda to enter the Distributor's premises to effect any of the aforesaid; and
 - (i) no obligation already incurred by the Distributor under this Agreement shall be affected.
- 16.2 The Distributor shall have no right or entitlement to compensation from Scotch & Soda on termination or expiration of this Agreement for any reason whatsoever, including but not limited to compensation for any created goodwill, investments (such as the showroom fit-out, furniture and fixtures) and compliance with post-termination obligations imposed on the Distributor pursuant to this Agreement and nothing shall suggest or is intended to suggest any acceptance on the part of Scotch & Soda of any obligation to pay any such compensation.

17. Non-Competition

The Distributor is not allowed to be involved directly or indirectly in the production, trading or sales of products that in the opinion of Scotch & Soda compete with the Products.

18. Force Majeure

- 18.1 The Distributor shall not be liable in any way for any delay or inability to perform any obligation under this Agreement due to any cause beyond its reasonable control, including, but not limited to, acts of God, labor problems, excessive absenteeism of employees, strike or other industrial action by employees of the Distributor or its suppliers, a (partial) breach of any obligation by a third party that supplies Products or raw materials, lockout, riots, war, armed conflict, terrorist attacks, rebellion, nuclear disaster, volcano eruptions, transportation problems, power outages, outbreak of viruses, accident, fire and compliance with any law, regulation or order of any official governmental body.
- 18.2 Each Party agrees to give notice forthwith to the other Party upon becoming aware of a force majeure event, which notice shall contain details of the relevant circumstances.

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18.3 If a force majeure event continues for a period of more than 30 days, the Distributor shall be entitled to terminate this Agreement in whole or in part. Scotch & Soda shall not have any liability to the Distributor in respect of the termination of this Agreement due to a force majeure event.

19. Confidential Information and Personal Data Protection

19.1 Under the Agreement “Confidential Information” means all financial, technical and commercial information relating to the subject matter of the Agreement and the respective businesses of the Parties of a proprietary and confidential nature disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by one Party (the “Disclosing Party”) to the other Party (the “Receiving Party”) whether before or after the date of the Agreement.

19.2 Each Party acknowledges that it will receive Confidential Information from the other Party under the Agreement. The Receiving Party shall at all times keep in strict confidence all Confidential Information and shall only use the Confidential Information in accordance with the terms and for the duration of the Agreement. The Receiving Party shall restrict access to Confidential Information to only those of its officers, employees and consultants on a need to know basis. However, prior to such access, the Receiving Party shall inform each such officer, employee or consultant of the proprietary and confidential nature of the Confidential Information and the Receiving Party’s confidentiality obligations under the Agreement. The Receiving Party shall not disclose the Confidential Information to any third party without the prior consent of the Disclosing Party. The Receiving Party shall protect the Confidential Information using the same degree of care and safeguards as it uses to protect its own proprietary information of like importance.

19.3 Information shall not be deemed Confidential Information and the Receiving Party shall have no obligation concerning the use or disclosure of any information which (i) is or becomes publicly known through no fault of the Receiving Party; (ii) the Receiving Party can demonstrate that it was in the possession of the Receiving Party at the time of disclosure; (iii) becomes known to the Receiving Party from a third party source other than the Disclosing Party without breach of any agreement between the Disclosing Party and such party; or (iv) was independently developed by the Receiving Party without the benefit of the Confidential Information received from the Disclosing Party.

19.4 Nothing in this Agreement shall prevent the Receiving Party from disclosing Confidential Information to the extent the Receiving Party is legally compelled to do so by any governmental, investigative or judicial agency pursuant to proceedings over which such agency has jurisdiction; provided, however, that prior to any such disclosure, the Receiving Party shall (a) assert the confidential nature of the Confidential Information to the agency; (b) immediately notify the Disclosing Party in writing of the agency’s order or request to disclose; and (c) cooperate fully with

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the Disclosing Party in protecting against any such disclosure and/or obtaining a protective order narrowing the scope of the compelled disclosure and protecting its confidentiality.

- 19.5 Except as required by law, no press release or other like publicity regarding the relationship between the Parties, this Agreement or its termination shall be made without the other Party's prior approval.
- 19.6 The Parties shall comply with the obligations under the General Data Protection Regulation (GDPR) (EU) 2016/679. If a Party acts in conflict with the General Data Protection Regulation, it shall indemnify the other Party for all claims and damages.

20. Anti-Bribery and Anti-Corruption

- 20.1 The Distributor agrees and undertakes that it shall not, and shall procure that any person acting on behalf of the Distributor in connection with this Agreement, including, without limitation, its employees, affiliates and agents, does not:
- (a) offer, promise or give any financial or other advantage to any person with the intention of influencing a person (who need not be the recipient of the advantage) to perform his or her function improperly, or where the acceptance of such advantage would itself be, or might be seen to be, improper; or
 - (b) offer, promise or give any financial or other advantage to a public official (or to any other person at the request of, or with the acquiescence of, a public official) with the intention of influencing that official in the performance of his or her public functions,
- in either case with a view to obtaining or retaining business or any form of commercial advantage for Scotch & Soda. The Distributor understands that the penalties for violations of this representation are severe and further agrees to indemnify Scotch & Soda for any loss that Scotch & Soda may incur as a result of the Distributor's non-compliance with this representation.

21. Miscellaneous

- 21.1 This Agreement sets forth the entire agreement between the Parties and this Agreement supersedes all prior arrangements, undertakings and understandings between Parties (including the agency agreement between the Parties with effective date 1 June 2018), whether tacit, oral, written or otherwise, in relation to the subject matter of this Agreement. This Agreement may be executed in counterparts and the parts so executed shall constitute one agreement and be binding on the Parties as if they had all executed the same document. Once signed, any reproduction of the Agreement made by reliable means, including without limitation a photocopy, pdf or facsimile, is considered an original, unless prohibited by local law.
- 21.2 To the extent permitted by local law, the Parties shall conduct transactions using an electronic commerce approach under which the Parties shall electronically transmit and receive legally

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binding purchase and sale obligations of the Products. Any reference to “writing” or “written” includes e-mail, faxes and any legible reproduction of words delivered in permanent and tangible form.

- 21.3 The relationship between Parties shall be that of independent contractors. Except as explicitly otherwise stated in this Agreement, the Agreement creates no relationship in the nature of joint venture, partnership, limited partnership or employment between Parties and Parties hereby acknowledge that no other facts or relationship exist that would create any such relationship between Parties.
- 21.4 The Distributor shall notify Scotch & Soda no later than 2 months before any change of control event as referred to in clause 15.2 (a) will be effectuated. The Distributor shall provide Scotch & Soda with all information it reasonably requires to make an assessment of the impact (if any) of the change of control.
- 21.5 Either Party is entitled to assign, delegate and/or give in security its rights and obligations pursuant to this Agreement after obtaining the prior consent of the other Party.
- 21.6 The failure of either Party to enforce any rights under this Agreement or to take action against the other Party in the event of a breach will not be deemed a waiver by that Party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.
- 21.7 If any provision of this Agreement is found or held to be invalid, unlawful or unenforceable by a court of competent jurisdiction, such validity shall not affect the validity or operation of any other provision and such invalid provision shall be severed from the Agreement.
- 21.8 The Agreement may only be amended or deviated from by agreement between the Parties.
- 21.9 Unless otherwise agreed, all communications between the Parties concerning the Agreement and its implementation must be in writing, which includes e-mail.

22. Governing Law and Jurisdiction

- 22.1 This Agreement shall be governed by and construed in accordance with Dutch law.
- 22.2 The Vienna Sales Convention shall not apply.
- 22.3 In the event of a dispute arising out or in relation to this Agreement, including its termination, the Parties shall first endeavour to resolve it between them. If they fail, either of the Parties can exclusively file such dispute before the competent Court in Amsterdam, without prejudice to the right of Scotch & Soda to file the dispute with the Court that would be competent in the absence of this provision.

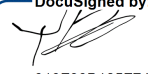
SCOTCH & SODA

Each party has entered into this Agreement by having an authorized representative sign below.

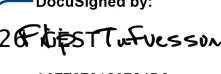
ACCEPTED AND AGREED:

**Scotch & Soda Export B.V./
Scotch & Soda B.V.**

Scotch & Soda Canada Inc.

DocuSigned by:

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Signature _____
Date

15-04-2021 | 17:26

DocuSigned by:

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Signature _____
Date

15-04-2021 | 08:16 PDT

Thomas Bervoets
Name _____

Filip Tufvesson
Name _____

CFO
Title _____

Controller
Title _____

confidential
Flip van der Drift
Jones Day
Mar 24, 2023 7:06 AM EDT

SCOTCH & SODA

Schedule 1

Arm's length remuneration

The Distributor will be provided an arm's length return; currently set at 3,0% Operating Margin based on actual Net Sales. Operating Margin shall mean Operating Profit ÷ Net Sales. The Parties agree to review, and adjust as necessary, the above stated Operating Margin transfer pricing policy from time to time in order to ensure that it appropriately reflects current arm's length market standards.

confidential
Flip van der Drift
Jones Day
Mar 24, 2023 7:06 AM EDT

SCOTCH & SODA

LIMITED RISK FRANCHISE AGREEMENT

THE UNDERSIGNED:

1. **Scotch & Soda Export B.V.** (registered in Hoofddorp, the Netherlands with number 34260036), whose registered office is at Jacobus Spijkerdreef 20, 2132 PZ Hoofddorp, the Netherlands ("Scotch & Soda"); and
2. **Scotch & Soda Retail Canada Inc.** (registered in Canada with number BC1108655), having its registered office at 1800 - 355 Burrard Street, BC V6C 2G8, Vancouver, Canada (the "Franchisee");

WHEREAS:

- A. Scotch & Soda and its affiliated companies are engaged in the business of designing, manufacturing, marketing and selling clothing and related products worldwide;
 - B. Scotch & Soda carries on such business and uses a number of trademarks to identify these clothing and related products as set forth in this Agreement and as specified in the Franchise Manual;
 - C. Scotch & Soda and its affiliated companies have built up a solid reputation and goodwill in such trademarks which are associated with a high standard of products and services, as well as highly qualified personnel and high-end locations;
 - D. Scotch & Soda as a result of investment and practical business experience has developed and owns the Franchise System, which is operated in Scotch & Soda stores worldwide;
 - E. the Franchisee is interested in operating Scotch & Soda franchise stores in the Territory pursuant to the Franchise System and with the use of the Intellectual Property Rights on a limited basis;
 - F. Scotch & Soda therefore wishes to grant the Franchisee the right to use the Franchise System and the Intellectual Property Rights to operate the Store(s) in the Territory, which right the Franchisee wishes to accept, on and subject to the terms and conditions of the Agreement;
 - G. Scotch & Soda and the Franchisee wish to enter into an agreement whereby the Franchisee shall (i) bear no product design, supply, foreign exchange, freight/shipping or warranty risks and (ii) only bear limited inventory, market and/or credit/collection risks in relation to the Franchise activities carried out by the Franchisee;
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HEREBY AGREE AS FOLLOWS:

1. Definitions

“Agreement” means this limited risk franchise agreement, including the schedules or annexes and the Franchise Manual;

“Business” means the business of retailing the Products in accordance with this Agreement and the Franchise System under the trademark “Scotch & Soda”;

“Collection” means one or more collection(s) of the Products as determined by Scotch & Soda in its sole discretion for each Season;

“Core Collection” means that part of a Collection, selected by Scotch & Soda in its sole discretion, which is essential for its story telling and its marketing purposes and for maintaining one look & feel in all Scotch & Soda stores worldwide;

“Customer” means the end-customer that buys the Products in the Store;

“E-commerce” has the meaning as set out in clause 2.3;

“Equipment” means the furniture, fixture and equipment as provided by a Third Party Supplier for each Store as specified in the Franchise Manual;

“Franchise Manual” means Scotch & Soda’s written and illustrated manual, which contains further information, obligations, explanation and illustrations regarding the Store(s) and the Franchise System, as may be amended by Scotch & Soda from time to time in accordance with clause 6 of this Agreement;

“Franchise System” means the distinctive business format and methods developed and implemented by Scotch & Soda and its affiliates for the sale of the Products and the operation of the stores worldwide, utilizing and comprising the Intellectual Property Rights and certain standard operational procedures, plans, directions, specifications, management and promotion, advertising techniques and identification schemes, technical assistance and training in the operation of the business, specialized reporting, book-keeping and accounting methods, information and communication technology (ICT, such as hardware, software and infrastructure), audio and video systems and advertising and promotional programs, and any improvement, addition or modification thereto at any time hereafter notified by Scotch & Soda to the Franchisee;

“Intellectual Property Rights” means any word mark, trade mark or pictorial mark, trade name, logos, designs, copyright, model right, design right, scent, know-how and all other intellectual

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property rights connected to or arising from the Products, promotional and marketing materials and/or the Equipment and any and all other intellectual property rights whatsoever of Scotch & Soda and/or its affiliates;

“Operational Costs” means the costs as set out in clause 8.3;

“Parties” means Scotch & Soda and the Franchisee jointly (and “Party” shall be construed accordingly);

“Products” means Scotch & Soda’s products as offered for sale by Scotch & Soda to the Franchisee, being articles of clothing and clothing accessories for men, women and kids, that have been designed, produced and/or marketed by Scotch & Soda, determined by Scotch & Soda in its sole discretion from time to time;

“Season” means Spring/Summer or Fall/Winter of a certain year;

“Selling Season” means the period, as indicated by Scotch & Soda at its sole discretion from time to time, during which the Franchisee can place orders with Scotch & Soda for a specific Collection;

“Store” means the Franchisee’s store at which the Business takes place from the location proposed by the Franchisee and approved by Scotch & Soda;

“Store Opening Date” means the date on which a Store is opened by the Franchisee;

“Territory” means Canada;

“Third Party Supplier” means the supplier of the Equipment and/or other items for the operation and support of the Store and/or the project manager, selected by Scotch & Soda and with whom the Franchisee enters into a direct agreement regarding supply of these goods and/or services;

“Wholesale” has the meaning set out in clause 2.3.

2. Grant of rights

- 2.1 Subject to the provisions of this Agreement, Scotch & Soda grants the Franchisee the right and license to operate the Franchise System in each Store in the Territory, always in accordance with this Agreement, the Franchise System and the Franchise Manual, with the use of the Intellectual Property Rights, which appointment, right and license the Franchisee hereby accepts. This Agreement does not grant to the Franchisee any right or license other than the right and license explicitly mentioned herein.
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- 2.2 The right and license granted to the Franchisee to operate each Store and use the Intellectual Property Rights shall extend only to each Store opened at locations approved by Scotch & Soda in accordance with clause 4 of this Agreement. The Franchisee shall not make any use nor permit or authorize any use directly or indirectly of the Franchise System and/or the Intellectual Property Rights nor sell the Products from a location other than the locations approved by Scotch & Soda nor shall it knowingly offer or provide any information or assistance concerning the Franchise System or the Intellectual Property Rights to any third party.
- 2.3 Notwithstanding the exclusivity as set out in clause 2.1 and unless explicitly agreed otherwise, Scotch & Soda shall remain entitled to sell, directly or indirectly, any Products (including but not limited to the Products that are the subject of this Agreement) to any multi-brand store or department store ("Wholesale") or to any customer in the Territory via mail-order and/or an online web store (collectively: "E-commerce"). Scotch & Soda shall be entitled to organize occasional online promotions and online sales actions.
- 2.4 The Franchisee acknowledges that all rights and licenses granted to the Franchisee hereunder are strictly personal to the Franchisee and the Franchisee shall not be entitled to assign, subcontract, sub-franchise or otherwise alienate such rights and licenses except with the prior consent of Scotch & Soda. In granting any such consent, Scotch & Soda shall be entitled at its sole discretion to impose such terms and conditions as it considers appropriate.
- 2.5 The Franchisee may return Products to Scotch & Soda against purchase price after discussion with Scotch & Soda.
- 3. Term and Termination**
- 3.1 The Agreement is entered into for an unlimited duration and effective as from 1 June 2018.
- 3.2 Each Party has the right to terminate the Agreement subject to prior notice taking into account a notice period of at least 6 months prior to the date of termination. The end of the notice period shall coincide with the end of a calendar month.
- 4. Design and Opening of Stores**
- 4.1 In order to protect the identity and integrity of the Franchise System, Scotch & Soda shall determine the interior and design of the Store. Scotch & Soda shall provide the Franchisee with a store pack before the scheduled Store Opening Date.
- 4.2 The price for the Equipment is estimated to be between € 800 and € 1,200 per square meter (exclusive of shipment and installation). This is an estimate only and if this estimate is exceeded, all costs shall nevertheless be for the account of the Franchisee.

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- 4.3 The Franchisee shall pay the full purchase price of the Equipment, to be paid to the Third Party Supplier no later than 30 days of the invoice date. The Third Party Supplier retains the ownership of the Equipment until the purchase price is paid in full.
- 4.4 The Franchisee shall construct, establish, furnish and maintain the Store strictly in accordance with the store pack, the Franchise Manual and any other reasonable requirements set by Scotch & Soda.
- 4.5 After each period of 5 years from the initial or any successive design of the Store, Scotch & Soda, acting reasonable, is entitled to instruct the Franchisee to implement at the Franchisee's account a new design of the Store, which may include a replacement of the Equipment. The Franchisee shall comply with such instructions and apply such new design to the Store. The Franchisee shall depreciate the Equipment accordingly no longer than in 5 years.
- 5. Operation of Stores**
- 5.1 The Franchisee acknowledges and accepts that it operates any Store(s) for its own risk and account and that it shall make all investments in relation to this Agreement for its own risk and account, regardless whether or not such investments have been requested or approved by Scotch & Soda, with entitlement to contribution or compensation by Scotch & Soda. Scotch & Soda is not a party to the lease agreement for a Store. The Franchisee shall indemnify Scotch & Soda for any claim by the landlord of the Store based on the lease agreement between the Franchisee and the landlord.
- 5.2 Subject to any mandatory over-riding law to the contrary applicable in the Territory, the Franchisee shall operate the Store(s) strictly in accordance with the provisions of this Agreement, the Franchise Manual, and any other reasonable instructions from Scotch & Soda from time to time, provided that such instructions are not in conflict with any provision of this Agreement.
- 5.3 Without prejudice to the generality of clause 5 of this Agreement, the Franchisee shall ensure that the Equipment and other approved interior of the Store is constantly in an excellent condition, as determined by Scotch & Soda in its sole reasonable discretion, which reflects the quality image of the Scotch & Soda brand and the Products. The Franchisee shall not change the Equipment without Scotch & Soda's prior consent. The Franchisee shall, at the request of Scotch & Soda, take all reasonable steps to promptly remedy any part of the Store, the Equipment and the advertising materials, that in the reasonable opinion of Scotch & Soda does not comply with the standards set forth in this Agreement or with the standards generally applied by Scotch & Soda. The Franchisee shall bear any related reasonable costs.
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- 5.4 The Store may only be changed with Scotch & Soda's prior consent. Notwithstanding clause 4.5 of this Agreement, Scotch & Soda is entitled from time to time to instruct the Franchisee to change the design and/or appearance of the Store, and the Franchisee shall promptly follow

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Scotch & Soda's related reasonable instructions. Any related costs shall be borne by the Franchisee.

- 5.5 The Franchisee shall provide sufficient facilities and resources to properly operate the Store during all its opening hours. This includes, without limitation, the supply of electricity, an operating cash register and payment terminal and well trained Store employees. The costs for operating the Store shall exclusively be borne by the Franchisee. All contracts with third parties with regard to the operation of the Store shall be concluded by the Franchisee. The Franchisee shall use in the Stores the cash registers and/or inventory systems as specified by Scotch & Soda in its sole, but reasonable, discretion from time to time, in order to provide Scotch & Soda with real time information on revenues, sales performance, key performance indicators and stock data (on EAN code) in relation to the Products. If Scotch & Soda approves the use of a cash register other than the one specified, the Franchisee shall arrange for an EDI connection between such cash register and Scotch & Soda's platform in order to provide the real time information set out in the preceding sentence.
- 5.6 The Franchisee shall take all reasonably required safety measures as specified in the Franchise Manual and shall at all times fully comply with any applicable specific legal requirements in the Territory, including but not limited to health and safety regulations, to keep its Store employees safe from any harm in the Store. The Franchisee shall take all reasonably required measures to prevent damage, fire and theft/robbery of the Products and the Equipment in the Store(s). All related damage and/or loss are for account of the Franchisee. The Franchisee shall provide a copy of the relevant insurance certificates at Scotch & Soda's first request.
- 5.7 The Franchisee shall employ the required number of qualified specialist Store employees as recommended by Scotch & Soda. The Franchisee shall ensure that each Store employee is familiar with the features and functionality of the Products and that they provide Customers with competent professional advice in a service-oriented manner. The Franchisee shall further ensure that all employees shall present a neat and clean appearance. Before the opening of each first Store in the Territory, the brand manager, VM responsible and fashion host of the Franchisee working in a Store shall follow a DNA training, organized at the place designated by Scotch & Soda, at the Franchisee's cost. For the opening of each subsequent Store the fashion host of the Franchisee working in such Store shall follow a DNA training at the place designated by Scotch & Soda at the Franchisee's cost. Training shall be followed in accordance with the rules as set out in the Franchise Manual.
- 5.8 The Franchisee shall procure that every employee of the Store shall follow and work in line with the instructions and training of Scotch & Soda's academy, participating in morning sessions and other academy activities as further described in the Franchise Manual and/or on the academy social media. The Franchisee shall arrange for a proper internet connection in its Stores available to all Store employees for this purpose.
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- 5.9 Subject to Scotch & Soda's prior approval, the Franchisee shall appoint a brand manager as dedicated local trainer. The brand manager shall follow the courses as recommended by Scotch & Soda. A brand manager shall be fluent in English.
- 5.10 The Franchisee shall appoint a local (English-speaking) VM manager for the opening of the fifth Store in the Territory. This local VM manager shall service each Store in the Territory and train each VM responsible of a Store.
- 5.11 The Franchisee shall sell in the Store all such Products as Scotch & Soda determines appropriate for sale in such Store. The Franchisee is not entitled to sell in the Store any products other than the Products. The Franchisee shall order the Core Collection each Season in quantities as determined by Scotch & Soda in its sole discretion;
- 5.12 Scotch & Soda shall determine the total order of the Products, taking into account and with respect for the specifics of the local market and the sales figures of previous Collections. Scotch & Soda shall also determine the retail ratio between the different Products (men/women/kids) and the Franchisee shall maintain this retail ratio between the different Products (men/women/kids) as determined by Scotch & Soda.
- 5.13 Scotch & Soda undertakes to advise, encourage and support the Franchisee with regard to the operation of the Store according to Scotch & Soda's best judgment and ability. Scotch & Soda is entitled to inspect the Store at all times to verify compliance with this Agreement.
- 5.14 The Franchisee shall change the current lease agreement or sign any agreement for lease of real estate for any Store only after prior approval by Scotch & Soda. The Franchisee shall use its best efforts to include in any such agreement a clause honouring Scotch & Soda or a third party appointed by Scotch & Soda the right but not the obligation to continue the lease at similar terms and conditions upon termination or expiration of this Agreement. The Franchisee shall provide a copy of the lease agreement at Scotch & Soda's first request.
- 6. Franchise Manual and other obligations of the Franchisee**
- 6.1 Scotch & Soda shall hand over the Franchise Manual to the Franchisee. The Franchise Manual remains the property of Scotch & Soda and shall be given to the Franchisee on loan for the duration of the term of this Agreement. The Franchisee explicitly acknowledges and accepts Scotch & Soda's Intellectual Property Rights in relation to the Franchise Manual, including but not limited to copyright, which rights also apply to any amendments. The Franchise Manual forms an integral part of this Agreement.
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- 6.2 Without prejudice to clause 4.5 and clause 5.4 of this Agreement, Scotch & Soda is entitled to make amendments to the Franchise Manual, which amendments shall become effective upon 1 month prior notice. The Franchisee shall implement these amendments as soon as possible at its own account.

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- 6.3 In the event of any conflict between a provision of this Agreement and the Franchise Manual, the relevant provision of this Agreement shall prevail to the extent of the inconsistency.
- 6.4 Notwithstanding any clause in this Agreement, Scotch & Soda is responsible for the marketing and promotion of the Products in the Territory. Upon request of Scotch & Soda the Franchisee may carry out marketing and promotion of the Products in the Territory on behalf of Scotch & Soda but the activities carried out shall remain for the account and risk of Scotch & Soda
- 6.5 The Franchisee agrees not to undertake any activities during the term of this Agreement which in the reasonable opinion of Scotch & Soda may be detrimental to the marketing and/or sale of the Products.
- 6.6 If Scotch & Soda introduces a customer loyalty program (e.g. a customer card), the Franchisee is obliged to participate in such loyalty program.
- 7. Intellectual Property Rights**
- 7.1 The Franchisee commits itself to promoting the sales of the Products with the Intellectual Property Rights. The Franchisee is obliged to use the Intellectual Property Rights only in the manner specified by Scotch & Soda or approved by Scotch & Soda and the Franchisee undertakes to strictly observe any of Scotch & Soda's brand guidelines as may be communicated to the Franchisee from time to time. The Franchisee acknowledges that Scotch & Soda is the sole owner of the Intellectual Property Rights and of all other rights, title and interest in the Franchise System, Franchise Manual and the Business and that Scotch & Soda and/or other affiliate companies of Scotch & Soda are exclusively entitled to the goodwill associated with the Intellectual Property Rights, the Franchise System, Franchise Manual and the Business. The Franchisee shall never claim any right or payment in this respect and renounce all such possible rights. Scotch & Soda reserves the right to add and/or substitute different Intellectual Property Rights for use in identifying the Franchise System and the Business as long as the added and/or new Intellectual Property Rights are used by other franchisees of Scotch & Soda worldwide.
- 7.2 The Franchisee shall use the Intellectual Property Rights and any other proprietary rights, only in the manner required or approved and permitted by Scotch & Soda and only in connection with the operation of the Business and shall not, either during or after the term of the Agreement, do anything which might in any way reflect adversely on the Business or the Intellectual Property Rights.
- 7.3 The Franchisee shall adhere to Scotch & Soda's Search Engine Advertisement Guidelines.
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- 7.4 For the duration of this Agreement, the Franchisee is permitted to include in its own brand name (label) or trade name Scotch & Soda's trademark and/or logo, after having obtained Scotch & Soda's prior written approval on the usage thereof. The Franchisee shall promptly

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discontinue any aforementioned use of Scotch & Soda's Intellectual Property Rights upon the termination or expiration of this Agreement.

- 7.5 The Franchisee shall not register or attempt to register in its name or that of any other person, firm, entity or corporation any of the Intellectual Property Rights (or any other name, trade mark, domain name, or design used in relation to the Business, Franchise Manual or Franchise System), to acquire any other intellectual property rights concerning such know-how, the Intellectual Property Rights in any country of the world. The Franchisee shall always expressly identify itself as a licensee, and not the owner, of the Intellectual Property Rights.
- 7.6 The Franchisee shall not, without Scotch & Soda's prior written consent, register any company name or trade mark, domain name or make use of any business name incorporating any of the Intellectual Property Rights or other intellectual property rights or other such names or marks or incorporating any similar-sounding name which is confusingly similar to, or unfairly competing with, any of the Intellectual Property Rights or other such property rights of Scotch & Soda.
- 7.7 The Franchisee shall not use any trade mark and/or trade name and/or insignia, domain name, design, logo other than the Intellectual Property Rights or any other name or mark notified by Scotch & Soda as part of the Franchise System in operating the Business. The Franchisee shall adhere to Scotch & Soda's qualitative criteria for internet sales as they apply from time to time. Scotch & Soda has the exclusive right to use and/or register the main webstore domain names in the territory (i.e. www.scotch-soda.jp, www.scotch-soda.uk etc.). The Franchisee's websites should never contain URLs with Scotch & Soda's brand names or misspellings in the domain name (www.Franchisee.scotchandsoda.jp), however it is not restricted to use the brand after the Franchisee domain name (e.g. www.Franchisee.jp/scotchandsoda). If requested by Scotch & Soda the Franchisee shall assign a domain name to Scotch & Soda at cost price or amend a domain name according to Scotch & Soda's guidelines. The Franchisee shall to the maximum extent possible impose such requirements on its Customers. The Franchisee is not entitled to offer or sell Products on online marketplaces, including but not limited to Ebay, Alibaba and TaoBao.
- 7.8 If the Franchisee becomes aware of any infringement or threatened infringement of any of the Intellectual Property Rights or any other registered property rights or any act of unfair competition or any act likely to impair the goodwill or reputation of/or associated with any of the Intellectual Property Rights, or of any claim asserted by a third party in respect of the use of any of the aforesaid within the Territory, the Franchisee shall promptly give Scotch & Soda full particulars of such circumstance.
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- 7.9 Scotch & Soda shall at its own expense and responsibility have the conduct of all proceedings relating to the Intellectual Property Rights or any other registered property rights or any other such name, mark or patent and Scotch & Soda shall in its sole discretion decide what action (including an action at law, an arbitral proceeding or an out-of-court settlement) to take, if any,

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with respect to any infringement of the aforesaid or any claims asserted by any third party in relation thereto.

- 7.10 The Franchisee shall provide Scotch & Soda with full assistance and cooperation in any action, claim or proceedings brought or threatened in respect of any of the Intellectual Property Rights or any other registered property rights or any other such intellectual property rights and at the request of Scotch & Soda shall join with Scotch & Soda in such action or proceedings, provided it has a cause of action under the applicable law, it being understood that all costs incurred in connection with this assistance/actions shall be borne by Scotch & Soda.
- 7.11 The Franchisee expressly acknowledges and agrees that any and all goodwill arising from the Franchisee's use of the Intellectual Property Rights and the carrying on of the Business in accordance with the Franchise System is solely and exclusively for Scotch & Soda's benefit.
- 7.12 The Franchisee commits itself to design and decorate each of the Stores and present the Products as per the Franchise Manual or as instructed by Scotch & Soda. The Franchisee recognizes that any and all Intellectual Property Rights to the design, decoration and presentation exclusively belong to Scotch & Soda. The Franchisee shall inform its Customers that the Products have been made for Scotch & Soda and that the Intellectual Property Rights belong exclusively to Scotch & Soda. The Franchisee procures that no one shall take any copies thereof without the prior written consent of Scotch & Soda.
- 7.13 If the Franchisee discovers that any of the Intellectual Property Rights in the Territory do not exclusively belong to Scotch & Soda in accordance with this Agreement, the Franchisee shall promptly notify Scotch & Soda and perform all necessary acts to establish the transfer or assignment of such rights to Scotch & Soda at Scotch & Soda's request.
- 7.14 The Franchisee is obliged to leave the Intellectual Property Rights, such as Scotch & Soda's trademark (label) affixed to the Products, undisturbed and under no circumstances to remove these.
- 7.15 In the event the Franchisee breaches any of its obligations under this clause 7, the Franchisee shall, without any further action or formality being required, be liable to Scotch & Soda for a promptly due and payable penalty of € 50,000 for each such breach and € 5,000 for each day such breach continues, without prejudice to the right of Scotch & Soda to claim specific performance and/or damages and without prejudice to any other rights that Scotch & Soda may have by virtue of law or this Agreement.

8. Prices, Operational Costs and Ordering

- 8.1 Scotch & Soda shall provide the Franchisee with the retail prices (including VAT, in local currency of the Territory) for the Products.

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- 8.2 For the Business carried out in the Territory the Franchisee shall receive an arm's length remuneration as set out in Schedule 1.
- 8.3 The Franchisee shall buy from Scotch & Soda and/or the Third Party Supplier all items, (including but not limited to the required items mentioned in the Franchise Manual) for the operation and support of the Stores, including, but not limited to window materials (if applicable), visual merchandise props, music, point of sale material, seasonal images for picture frames, tissue paper and stickers, stylist appointment cards and business cards, key look posters for staff, barfly blotters (if applicable), in-store look books, transport and customs fees, hangers, shopping bags, furniture, hardware, picture frames, scent for scent machines and related installation cost, to be determined at Scotch & Soda's sole discretion (the "Operational Costs"). Scotch & Soda or the Third Party Supplier shall invoice the Operational Costs to the Franchisee. These costs will be invoiced at the end of each month on an item by item basis. A copy of all underlying invoices will be provided at the Franchisee's first request.
- 8.4 The Franchisee shall order the Products in accordance with this Agreement, Scotch & Soda's instructions and with use of Scotch & Soda's purchase order documents. The Franchisee shall separate the orders for the different Products (Denim-Men-Women-Kids) on the order document.
- 8.5 In the event the Franchisee has multiple Stores, the Franchisee shall use one order document for all the Stores and Scotch & Soda shall deliver to one delivery address in the Territory.
- 9. Payment**
- 9.1 Scotch & Soda shall send its invoices via e-invoicing. The Franchisee shall provide Scotch & Soda with a specific email address to which such invoices shall be sent. The invoice shall be deemed received when Scotch & Soda's computer or server shows that the invoice has been sent to the Franchisee.
- 9.2 Unless pre-payment or any other form of payment or payment period is agreed in writing, the Franchisee shall pay to Scotch & Soda the arm's length purchase price no later than 60 days of the date the invoice was sent to the Franchisee, into a bank account designated by, and in accordance with further requirements specified by, Scotch & Soda.
- 9.3 All sums payable under this Agreement are in the local currency of the Territory and exclusive of any value added tax or other applicable sales tax which shall (where applicable) be added to the sum in question and where any withholding tax or similar deduction is required to be made, the sum in question shall be paid net of that deduction.
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- 9.4 All invoices not paid by the Franchisee when due shall bear interest from the due date to the date of actual payment at the rate equal to the lesser of 1% per month or the annual statutory commercial interest rate.

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9.5 If the Franchisee fails to pay any invoices when due, Scotch & Soda shall be entitled to suspend the performance of its obligations under the Agreement.

10. Cancellation of Orders

10.1 An order for the Products cannot be cancelled by the Franchisee, unless with Scotch & Soda's prior consent or receipt by Scotch & Soda of the cancellation of an order no later than 10 days of the date of Scotch & Soda's order confirmation.

10.2 The Franchisee shall pay to Scotch & Soda a compensation of 50% of the total gross order value which shall be payable on demand, notwithstanding the right of Scotch & Soda to claim full compensation of damage, if the Franchisee:

- (a) cancels an order for the Products after the expiration of the term set out in clause 10.1;
- (b) does not entirely or does not in due time accept delivery of an order for the Products.

10.3 The Franchisee shall indemnify Scotch & Soda in respect of any claim by a third party contracted to perform any part of the Agreement for loss or damage, including future loss, suffered by such third party as a result of late cancellation by the Franchisee.

11. Delivery of Products

11.1 Scotch & Soda shall deliver the Products to the Franchisee on an Ex Works basis (EXW, Incoterms 2010) at Scotch & Soda's warehouse in Hoofddorp/Aalsmeer. Scotch & Soda shall determine the mode of shipment and the carrier of the Products.

11.2 Scotch & Soda shall use its commercial best efforts to meet the delivery period agreed between the Parties. However, such delivery periods, including those set out in offers or order confirmations, are targets only, and not deadlines.

11.3 A delay beyond the delivery period shall not entitle the Franchisee to terminate the Agreement or claim damages, or to suspend or waive any of its obligations under the Agreement.

11.4 Shipment of the Products shall be for the risk and expense of Scotch & Soda

11.5 If the shipment of the Products cannot go ahead for reasons beyond the influence of either Party, the Products shall be stored at the risk and expense of Scotch & Soda. If the shipment of the Products cannot go ahead for reasons within the influence of Scotch & Soda, the Products shall be stored at the full risk and expense of Scotch & Soda. If the shipment of the Products cannot go ahead for reasons within the influence of the Franchisee, the Products shall be stored at the full risk and expense of Scotch & Soda.

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- 11.6 The Products are delivered to the Franchisee as is. The Franchisee is responsible for compliance of the Products with local law, regulations and other requirements.
- 11.7 If delivery of the ordered Products is not made in time by Scotch & Soda due to circumstances beyond the influence of Scotch & Soda including, but not limited to, late delivery of Products to Scotch & Soda due to some direct or indirect involvement of the manufacturer, then the delivery period shall be extended by the length of the delay and the Franchisee shall not be entitled to cancel the order or terminate the Agreement for such reason, provided that however, such delay shall not be for a period exceeding 90 days from the original delivery date of Products, in which event the Franchisee shall be entitled to cancel the order.
- 11.8 Scotch & Soda is entitled to make partial deliveries of the Products ordered by the Franchisee where necessary. Each partial delivery is deemed to be a separate delivery.
- 11.9 The Franchisee must accept the Products from Scotch & Soda or from a third party engaged by Scotch & Soda as from the moment that either one of them makes the Products available for delivery to the Franchisee.
- 11.10 In the event of differences between (the quantity of) ordered Products and received Products, transport documentation shall be decisive, with the exception of clear mistakes in the transport documents and under the conditions that such mistakes are being notified to Scotch & Soda immediately after delivery.
- 11.11 The Franchisee may return Products to Scotch & Soda against purchase price after discussion with Scotch & Soda's.
- 12. Retention of Title**
- 12.1 All delivered Products remain the property of Scotch & Soda until the Franchisee has paid these Products and all related taxes, interests and costs in full. Title of ownership of these Products passes to the Franchisee upon payment. The Franchisee shall properly care for and insure the Products against any damage or loss during the time the Products remain the property of Scotch & Soda under this clause.
- 12.2 The Franchisee shall not encumber, lend or otherwise make the Products held under retention of title available to any third party until Scotch & Soda has received payment in full for the Products.
- 13. Warranties**
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- 13.1 Save for changes as announced by Scotch & Soda to the Franchisee before delivery of the Products and notwithstanding the exclusions and limitations set out in this clause 13, Scotch &

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Soda warrants that the Products are substantially in conformity with the sample of each Product presented to the Franchisee in Scotch & Soda's official showroom during the Selling Season.

- 13.2 Warranties given by Scotch & Soda with regard to the Products specifically exclude:
- (a) wash and color fastness;
 - (b) worn clothes;
 - (c) clothing not cleaned in accordance with cleaning instructions;
 - (d) perfume or cosmetics; and
 - (e) bathing suits or underpants not being sealed in original sealed packaging.
- 13.3 Minor differences in the Products including, but not limited to, color, size, finish and other quality standards, shall be accepted by the Franchisee and shall not entitle the Franchisee to suspend its obligations under the Agreement, to terminate the Agreement or pay a reduced purchase price for the Products.
- 13.4 If a considerable number of a certain style as part of the delivered Products does not conform to the warranty set out in clause 13.1, the Franchisee shall be entitled to return these defective Products to Scotch & Soda at Scotch & Soda's costs. Scotch & Soda shall, at its sole discretion, repair or replace the relevant Products or issue a credit invoice for its net purchase price. The Franchisee is not entitled to return any individual defective items of the delivered Products to Scotch & Soda for any reason.
- 13.5 The Parties shall organize their business in such a way that each of them is able to comply with its respective obligations under applicable law in respect of product safety and recall. The Franchisee shall follow up all reasonable instructions given by Scotch & Soda if Scotch and Soda is required or decides, at its reasonable discretion, that (some of) the Products should be taken out of the market, or that customers have to be warned or that any other measures should be taken in the light of any recall or other product safety matters, also if such instructions entail that the Franchisee should cease the sale of the Products. If the Franchisee is under an obligation to take any action regarding a recall of Products on the basis of any applicable legislation, then the Franchisee shall timely inform Scotch & Soda in that respect and ask Scotch & Soda for any (further) instructions. The Franchisee is not obliged to follow up any of Scotch & Soda's instructions if such instruction would be in violation of any applicable rules or regulations.

14. Complaints

- 14.1 The Franchisee shall check the Products promptly upon their delivery. The Franchisee shall promptly notify Scotch & Soda in writing of any visible defects, failing which the Franchisee is deemed to have received the Products free of any visible defects.
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- 14.2 The Franchisee must also report to Scotch & Soda of any defect or damage to Products provided by Scotch & Soda, any errors in the supply of the Products or services or complaints about any

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other performance by Scotch & Soda, promptly after such defect or loss is discovered by the Franchisee, and in any event by no later than 14 days after delivery of the Products.

15. Liability and Indemnity

- 15.1 Scotch & Soda shall be fully liable for any loss or damage incurred by the Franchisee due to Scotch & Soda's breach of the Agreement.
- 15.2 Scotch & Soda shall fully indemnify and hold the Franchisee and all of its employees harmless from any and all claims filed by third parties who suffer loss or damage in connection with the performance of the Agreement.
- 15.3 The provisions of this clause shall equally apply to the benefit of all individuals and legal entities engaged by either Party in the performance of the Agreement.

16. Insurance

- 16.1 Scotch & Soda shall take out and maintain at its own costs for the duration of this Agreement comprehensive insurance with a reputable insurer to cover all the Franchisee's risks in relation to the operation of the Business and each of the Stores, including without limitation property damage, business interruption, public liability and employers' liability.
- 16.2 The Franchisee shall not be liable to Scotch & Soda or any third party for any loss resulting from the performance of the Agreement that is covered, or ought to be covered, by Scotch & Soda's insurance, had Scotch & Soda taken out the required insurance cover. In this respect Scotch & Soda indemnifies the Franchisee against any related third-party claim.

17. Termination

- 17.1 Either Party may terminate this Agreement with immediate effect, without the other Party being entitled to any damages and without affecting the other rights of the terminating Party under the Agreement or by virtue of law, by giving notice to the other Party upon the occurrence of any of the following events:
 - (a) if the other Party applies for bankruptcy or a suspension of payments; or
 - (b) if the other Party is declared bankrupt or granted a suspension of payments; or
 - (c) if any event having a similar effect as the events referred to in paragraphs (a) and (b) above occurs with respect to the other Party under the laws of the jurisdiction in which the other Party has its principal office.
- 17.2 Scotch & Soda shall be entitled to suspend and/or terminate this Agreement in whole or in part, with immediate effect, without the Franchisee being entitled to claim any damages and without affecting Scotch & Soda's other rights under this Agreement or by virtue of law (including but not limited to any termination rights) if:

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- (a) the Franchisee fails to operate, in Scotch & Soda's opinion, any of the Stores in accordance with (i) the Franchise System or (ii) any of the reasonable instructions of Scotch & Soda;
- (b) more than 50% of the Franchisee's share capital is directly or indirectly transferred to a natural person or legal entity that did not own directly or indirectly at least twenty five percent (25%) of the Franchisee's share capital at the date of execution of this Agreement; or any share capital is directly or indirectly transferred to a natural person or legal entity that manufactures or markets products that are, in the sole reasonable discretion of Scotch & Soda, competitive with the Products; or if there is a change in the senior executive management of the Franchisee; or control of the Franchisee or the Business is directly or indirectly changed in any other manner; or
- (c) any event takes place involving the Franchisee or any direct or indirect shareholder of the Franchisee or any affiliate of the Franchisee which in Scotch & Soda's sole opinion may adversely affect the reputation or business success of the Franchisee or Scotch & Soda and the Franchisee does not immediately and adequately remedy its cause upon receipt of a written warning from Scotch & Soda; or
- (d) if the Franchisee breaches any material obligation under this Agreement that cannot be remedied or if the Franchisee breaches any of its obligations and fails to remedy such breach within 30 days of receipt of a notification of such breach; or
- (e) an attachment, distress, execution or other process has been initiated in relation to (a substantial part of) any of the Franchisee's assets and is not released or discharged within 30 days; or
- (f) the Franchisee fails to comply with any applicable law or regulation in the Territory or ceases for any reason to hold or fails to obtain any required license or consent from any governmental authority or body required by the Franchisee to operate the Store or to import the Products into the Territory; or
- (g) the occupation of the mall, in which a Store is located, (i) in general falls below 75% of the total leasable store space in the mall or (ii) in relation to stores with products similar or directly related to the Products falls below 50% of the total leasable Store space in the mall; or
- (h) the Franchisee acts in conflict with clause 22 (Anti-Bribery) or Scotch & Soda's Code of Conduct in place at the date of this Agreement.

18. Consequences of Termination

18.1 Upon the termination or expiration of this Agreement for any reason:

- (a) Scotch & Soda and the Franchisee shall closely co-operate to ensure a smooth handover or settlement;
- (b) any sums owed by the Franchisee to Scotch & Soda shall immediately become due and payable as from the date of termination;
- (c) the Franchisee shall immediately cease to operate the Stores and to use the Franchise System and shall not thereafter hold itself out in any way as a franchisee of Scotch & Soda and shall refrain from any action that would or may indicate any relationship between

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- the Franchisee and Scotch & Soda;
- (d) the Franchisee shall immediately cease to sell the Products and to open any new Store and to use in any way whatsoever any and all of the Intellectual Property Rights and, at the Franchisee's expense, do all such acts and things and execute all such documents as Scotch & Soda shall require to disassociate the Franchisee from any claim or interest whatsoever in the Intellectual Property Rights or any part thereof and shall remove any form of communication indicating that the Franchisee is a franchise partner of Scotch & Soda and shall duly and promptly refer to Scotch & Soda any and all enquiries, order, correspondence and the like in relation to the Products;
 - (e) the Franchisee shall return to Scotch & Soda or otherwise dispose of or destroy as per Scotch & Soda's instructions all samples of Products, signs, advertising, promotional or sales material relating to the Products, stationery, invoices, forms, specifications, designs, records, data, furniture, equipment, hardware, packaging, labels, decorative elements and colours, as well as all other materials or information pertaining to or concerning the Products, the Stores or the Franchise System or bearing any of the Intellectual Property Rights and/or shall permit the authorized agents of Scotch & Soda to enter the Stores to effect any of the aforesaid;
 - (f) the Franchisee shall return to Scotch & Soda all copies of the Franchise Manuals under its control and shall return or destroy any other notes, memoranda or other information concerning the Franchise System stored in whatever form (including, without limitation, on computer systems);
 - (g) the Franchisee shall transfer or assign to Scotch & Soda, at the cost of Scotch & Soda, any domain name containing any trade name of Scotch & Soda, or any adaptation thereof, registered or controlled by the Franchisee, its affiliated companies or direct or indirect shareholders;
 - (h) Scotch & Soda may at its option repurchase from the Franchisee, and the Franchisee shall in such case sell to Scotch & Soda any or all stock of Products then held by the Franchisee at their fair market value to be determined by Scotch & Soda; Scotch & Soda shall be responsible for arranging transport and insurance and shall bear all associated costs;
 - (i) Scotch & Soda shall have the right to cancel any order for the Products previously placed by the Franchisee with Scotch & Soda and any confirmation or other acknowledgement of such order issued by Scotch & Soda, if such Products have not been delivered by Scotch & Soda before the date of termination or expiration; and
 - (j) no obligation already incurred by the Franchisee under this Agreement shall be affected.

18.2 The Franchisee shall have no right or entitlement to compensation from Scotch & Soda on termination or expiration of this Agreement for any reason whatsoever, including but not limited to compensation for any created goodwill, investments made (such as the purchase of the Equipment) and compliance with post-termination obligations imposed on the Franchisee pursuant to this Agreement and nothing shall suggest or is intended to suggest any acceptance on the part of Scotch & Soda of any obligation to pay any such compensation.

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19. Non-Competition

- 19.1 The Franchisee is not allowed to be involved directly or indirectly in the production, trading or sales of products that in the opinion of Scotch & Soda compete with the Products.
- 19.2 The Franchisee shall always ask Scotch & Soda's prior approval for the trading or sale of products of any other brands.

20. Force Majeure

- 20.1 Franchisee shall not be liable in any way for any delay or inability to perform any obligation under this Agreement due to any cause beyond its reasonable control, including, but not limited to, acts of God, labor problems, excessive absenteeism of employees, strike or other industrial action by employees of Franchisee or its suppliers, a (partial) breach of any obligation by a third party that supplies Products or raw materials, lockout, riots, war, armed conflict, terrorist attacks, rebellion, nuclear disaster, volcano eruptions, transportation problems, power outages, outbreak of viruses, accident, fire and compliance with any law, regulation or order of any official governmental body.
- 20.2 Each Party agrees to give notice forthwith to the other Party upon becoming aware of a force majeure event, which notice shall contain details of the relevant circumstances.
- 20.3 If a force majeure event continues for a period of more than 30 days, both Parties shall be entitled to terminate this Agreement in whole or in part. Scotch & Soda shall not have any liability to the Franchisee in respect of the termination of this Agreement due to a force majeure event.

21. Confidential Information and Personal Data Protection

- 21.1 Under the Agreement "Confidential Information" means all financial, technical and commercial information relating to the subject matter of the Agreement and the respective businesses of the Parties of a proprietary and confidential nature disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by one Party (the "Disclosing Party") to the other Party (the "Receiving Party") whether before or after the date of the Agreement.
- 21.2 Each Party acknowledges that it will receive Confidential Information from the other Party under the Agreement. The Receiving Party shall at all times keep in strict confidence all Confidential Information and shall only use the Confidential Information in accordance with the terms and for the duration of the Agreement. The Receiving Party shall restrict access to Confidential Information to only those of its officers, employees and consultants on a need to know basis. However, prior to such access, the Receiving Party shall inform each such officer, employee or consultant of the proprietary and confidential nature of the Confidential Information and the Receiving Party's confidentiality obligations under the Agreement. The

SCOTCH & SODA

Receiving Party shall not disclose the Confidential Information to any third party without the prior written consent of the Disclosing Party. The Receiving Party shall protect the Confidential Information using the same degree of care and safeguards as it uses to protect its own proprietary information of like importance.

- 21.3 Information shall not be deemed Confidential Information and the Receiving Party shall have no obligation concerning the use or disclosure of any information which (i) is or becomes publicly known through no fault of the Receiving Party; (ii) the Receiving Party can demonstrate that it was in the possession of the Receiving Party at the time of disclosure; (iii) becomes known to the Receiving Party from a third party source other than the Disclosing Party without breach of any agreement between the Disclosing Party and such party; or (iv) was independently developed by the Receiving Party without the benefit of the Confidential Information received from the Disclosing Party.
- 21.4 Nothing in this Agreement shall prevent the Receiving Party from disclosing Confidential Information to the extent the Receiving Party is legally compelled to do so by any governmental, investigative or judicial agency pursuant to proceedings over which such agency has jurisdiction; provided, however, that prior to any such disclosure, the Receiving Party shall (a) assert the confidential nature of the Confidential Information to the agency; (b) immediately notify the Disclosing Party in writing of the agency's order or request to disclose, and (c) cooperate fully with the Disclosing Party in protecting against any such disclosure and/or obtaining a protective order narrowing the scope of the compelled disclosure and protecting its confidentiality.
- 21.5 The Franchisee acknowledges that the Franchise Manual and any part thereof are valuable know-how which shall be deemed as Confidential Information of Scotch & Soda.
- 21.6 Except as required by law, no press release or other like publicity regarding the relationship between the Parties, this Agreement or its termination shall be made without the other Party's prior approval.
- 21.7 The Parties shall comply with the obligations under the General Data Protection Regulation (GDPR) (EU) 2016/679. If a Party acts in conflict with the General Data Protection Regulation, it shall indemnify the other Party for all claims and damages.

22. Anti-Bribery and Anti-Corruption

- 22.1 The Franchisee agrees and undertakes that it shall not, and shall procure that any person acting on behalf of the Franchisee in connection with this Agreement, including, without limitation, its employees, affiliates and agents, does not:
- (a) offer, promise or give any financial or other advantage to any person with the intention of influencing a person (who need not be the recipient of the advantage) to perform his or her function improperly, or where the acceptance of such advantage would itself be, or might be seen to be, improper; or

SCOTCH & SODA

(b) offer, promise or give any financial or other advantage to a public official (or to any other person at the request of, or with the acquiescence of, a public official) with the intention of influencing that official in the performance of his or her public functions, in either case with a view to obtaining or retaining business or any form of commercial advantage for Scotch & Soda. The Franchisee understands that the penalties for violations of this representation are severe and further agrees to indemnify Scotch & Soda for any loss that Scotch & Soda may incur as a result of the Franchisee's non-compliance with this representation.

23. Miscellaneous

- 23.1 This Agreement sets forth the entire agreement between the Parties and this Agreement supersedes all prior arrangements, undertakings and understandings between Parties, whether tacit, oral, written or otherwise, in relation to the subject matter of this Agreement. This Agreement may be executed in counterparts and the parts so executed shall constitute one agreement and be binding on the Parties as if they had all executed the same document. Once signed, any reproduction of the Agreement made by reliable means, including without limitation a photocopy, pdf or facsimile, is considered an original, unless prohibited by local law.
- 23.2 To the extent permitted by local law, the Parties shall conduct transactions using an electronic commerce approach under which the Parties shall electronically transmit and receive legally binding purchase and sale obligations of the Products. Any reference to "writing" or "written" includes e-mail, faxes and any legible reproduction of words delivered in permanent and tangible form.
- 23.3 The relationship between Parties shall be that of independent contractors. Except as explicitly otherwise stated in this Agreement, the Agreement creates no relationship in the nature of joint venture, partnership, limited partnership or employment between Parties and Parties hereby acknowledge that no other facts or relationship exist that would create any such relationship between Parties.
- 23.4 The Franchisee shall notify Scotch & Soda no later than 2 months before any change of control event as referred to in clause 17.2 (b) will be effectuated. The Franchisee shall provide Scotch & Soda with all information it reasonably requires to make an assessment of the impact (if any) of the change of control.
- 23.5 Either Party is entitled to assign, delegate and/or give in security its rights and obligations pursuant to this Agreement after obtaining the prior consent of the other Party.
-
- 23.6 The failure of either Party to enforce any rights under this Agreement or to take action against the other Party in the event of a breach will not be deemed a waiver by that Party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.

SCOTCH&SODA

- 23.7 If any provision of this Agreement is found or held to be invalid, unlawful or unenforceable by a court of competent jurisdiction, such validity shall not affect the validity or operation of any other provision and such invalid provision shall be severed from the Agreement.
- 23.8 The Agreement may only be amended or deviated from by written agreement between the Parties.
- 23.9 Unless otherwise agreed, all communications between the Parties concerning the Agreement and its implementation must be in writing, which includes e-mail.
- 24. Governing Law and Jurisdiction**
- 24.1 This Agreement shall be governed by and construed in accordance with Dutch law.
- 24.2 The Vienna Sales Convention shall not apply.
- 24.3 In the event of a dispute arising out or in relation to this Agreement, including its termination, the Parties shall first endeavour to resolve it between them. If they fail, either of the Parties can exclusively file such dispute before the competent Court in Amsterdam.


confidential
Flip van der Drift
Jones Day
Mar 22, 2023 12:31 PM EDT

SCOTCH & SODA

Each Party has entered into this Agreement by having an authorized representative sign below.

ACCEPTED AND AGREED:

Scotch & Soda Export B.V.



Signature 4 June 2019
Date

Geert van Turboden
Name

CEO
Title

Scotch & Soda Retail Canada Inc.



Signature Date

Ari Hoffman
Name

CEO
Title

confidential
Flip van der Drift
Jones Day
Mar 22, 2023 12:31 PM EDT

SCOTCH&SODA

SCHEDULE 1

REMUNERATION

- 3.0% margin of actual net sales (TNNM)

confidential
Flip van der Drift
Jones Day
Mar 22, 2023 12:31 PM EDT

This is **Exhibit "L"** referred to in the affidavit of Filip Tufvesson, affirmed before me by videoconference on May 11, 2023 in accordance with O.Reg. 431/20: Administering Oath or Declaration Remotely. The deponent was in the City of New York, in the State of New York and I was located in the City of Toronto in the Province of Ontario



.....
A Commissioner For Taking Affidavits

Commissioner Name: Monique Sassi
Law Society of Ontario Number: 63638L

CONSULTING AGREEMENT

This Consulting Agreement, dated as of May 11, 2023 (together with all Exhibits and attachments hereto, collectively, the “Agreement”), is made by and between Tiger Asset Solutions Canada, ULC (“Consultant”) and Scotch & Soda Retail Canada Inc. and Scotch & Soda Canada Inc. (collectively, the “Companies” or the “Merchant”).

WITNESSETH:

WHEREAS have each filed a notice of intention to make a proposal on May 8, 2023 pursuant to the *Bankruptcy and Insolvency Act* (“BIA”) and KSV Restructuring Inc. has been appointed proposal trustee of each of the Companies (in such capacity, the “Proposal Trustee”) and the Companies intend to seek an order from the Ontario Superior Court of Justice (Commercial List) (the “Court”) approving, among other things, this Agreement and the conduct of the Sale in accordance with the terms hereof and the Sale Guidelines (the “Approval Order”);

WHEREAS, Companies have identified retail store locations identified on **Exhibit A** hereto (the “Stores”) at which it desires Consultant to provide consulting services with respect to the management and disposition of Merchandise (as defined below) in the context of a “Store Closing” Sale or similar theme sale;

WHEREAS, Consultant is in the business of, among other things, providing inventory and fixture disposition services to retailers desiring to close retail store locations;

WHEREAS, Companies and Consultant desire to enter into an arrangement whereby Consultant will provide inventory and fixture disposition services to Companies at the Stores.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. DEFINITIONS

For the purposes of this Agreement, the terms listed below shall have the respective meanings indicated:

1.1 “Merchandise” shall mean all items of owned merchandise or inventory located in the Stores as of the applicable Sale Commencement Date as well as additional inventory owned by the Companies and delivered to the applicable Stores by after the Sale Commencement Date.

1.2 “FF&E” shall mean all owned furniture, fixtures, and equipment located in the Stores as of the applicable Sale Commencement Date for such Stores.

1.3 “Proceeds” means the aggregate of all sales of Merchandise made under this Agreement, including honoured gift cards, exclusive of all applicable sales taxes.

1.4 “Sale” shall mean a “Store Closing”, “Everything Must Go”, “Everything on Sale” or similar themed sale in accordance with the Sale Guidelines.

1.5 “Sale Commencement Date” shall mean the first business day following the entry of the Approval Order, which is estimated to be May 17, 2023.

1.6 “Sale Expenses” shall mean those expenses controlled by Consultant and incurred in connection with the Sale, including (i) Supervisor Costs, (ii) advertising expenses, and (iii) miscellaneous expenses (including third party verified legal fees) necessary for the Sale, as set forth on the Budget attached hereto as **Exhibit B**.

1.7 “Sale Term” shall mean the period of time beginning with the Sale Commencement Date and ending on the Sale Termination Date provided, however, that the Companies and Consultant may, in consultation with the Proposal Trustee, mutually agree in writing to extend the Sale Termination Date (as defined below) or to terminate the Sale at any Store prior to the Sale Termination Date.

1.8 “Sale Termination Date” for the Stores shall be determined by store and shall be a date mutually agreed upon between the Companies and Consultant but in no event later than July 5, 2023.

1.9 “Services” shall mean the services to be performed by Consultant pursuant to Section 2.2 of this Agreement.

1.10 “Stores” shall mean Companies’ retail store locations identified on **Exhibit A**.

1.11 “Store Employees” shall mean those individuals who any of the Companies retain on a term and task, temporary basis for the sole purpose of assisting with the conduct of the Sale.

1.12 “Supervisors” shall mean the individuals whom Consultant shall engage to provide Services in the Stores in connection with the Sale.

1.13 “Supervisor Costs” shall have the meaning set forth in Section 2.3 of this Agreement.

2. CONSULTING

2.1 Consultant hereby agrees to serve as an independent consultant to Companies in connection with the conduct of a Sale at the Stores.

2.2 On the terms and conditions set forth herein, commencing as of the Sale Commencement Date, Consultant shall provide Companies with the following Services with respect to the conduct of a Sale;

- (i) provide a mutually agreed upon Sale management team, including an operational lead and a financial lead, to assist Companies in conducting the Sale;
- (ii) provide a mutually agreed upon number of qualified field supervisors to assist Companies in conducting the Sale;

- (iii) oversee the liquidation and disposal of the Merchandise and FF&E to assist Companies in maximizing the net proceeds from the Sale;
- (iv) recommend and implement, with approval of Companies, appropriate advertising to effectively sell the Merchandise during the Sale;
- (v) recommend and implement the appropriate merchandising, pricing and discounting of the Merchandise;
- (vi) determine the need for and facilitate transfers of inventory between Stores and any applicable warehouse or storage facilities;
- (vii) with approval of Companies, promote the Companies brand, ecommerce business, and ongoing retail locations with appropriate customer redirect advertising;
- (viii) cooperate with Companies to ensure a smooth wind down for the Stores; and
- (ix) provide such other related services deemed necessary or prudent by Company and Consultant under the circumstances giving rise to a Sale.

2.3 In connection with the Sale, Consultant shall directly retain and engage the Supervisors. With respect to the Sale, Consultant and Companies shall mutually determine the appropriate number of Supervisors to use in the Sale based on the number and the location of Stores included in the Sale. The Supervisors are independent contractors engaged by Consultant and are not and shall not be deemed to be employees or agents of the Companies in any manner whatsoever; nor do the Supervisors have any relationship with Companies by virtue of this Agreement or otherwise which creates any liability or responsibility, including any employment liability, on behalf of Companies for the Supervisors. During the Sale Term, the Supervisors shall perform Services during normal Store operating hours and for the period of time prior to the Store opening and subsequent to the Store closing, as required in connection with the Sale in Consultant's discretion. In consideration of Consultant's engagement of the Supervisors, Companies agrees to pay Consultant, as a Sale Expense as set forth on the Budget, (i) the weekly rate and bonus for such Supervisors (ii) the Supervisors' documented, reasonable and actual out of pocket travel costs for travel to and from and between the Stores (collectively, the "Supervisor Costs").

2.4 Title to all Merchandise shall remain with Companies at all times during the Sale Term until such Merchandise is sold by or on behalf of Companies. All sales of Merchandise in the Stores shall be made on behalf of Companies.

2.5 Gift cards issued by the Companies prior to the Sale Commencement Date up to and including fifteen (15) days after the Sale Commencement Date will be accepted as part of the Sale.

3. EXPENSES

3.1 Companies shall be responsible for the payment of all expenses incurred in operating the Stores during the Sale, including all Sale Expenses. Consultant shall not exceed the amounts set forth for Sale Expenses on the Budget attached hereto as **Exhibit B** without the written consent of Companies.

4. CONSULTANT'S FEES

4.1 Consultant shall be entitled to a base fee equal to \$50,000 payable in five equal weekly installments of \$10,000 starting with the second week following the Sale Commencement Date.

5. INVOICES; FINAL RECONCILIATION; ADVANCE

5.1 Consultant shall bill the Companies weekly, with each bill setting forth (i) Sale Expenses incurred directly by Consultant as set forth in the Budget and (ii) the applicable FF&E Fee (as defined in paragraph 12.1 below) that has been earned from the prior week's sales pursuant to Section 12.1. Within two business days of the submission of such invoices, such invoices shall be paid in full by Companies.

5.2 Concurrently with the execution of this Agreement, and as a condition to Consultant's obligations hereunder, Companies shall fund to Consultant \$20,000 and further \$20,000 upon issuance of the Approval Order (collectively, the "Special Purpose Payment") which shall be held by Consultant as security for the reimbursement of Sale Expenses and payment of any other amounts to Consultant hereunder. Without limiting any of Consultant's other rights, Consultant may apply the Special Purpose Payment to any unpaid obligation owing to Consultant under this Agreement, on three business days' notice. Any portion of the Special Purpose Payment not used to pay amounts explicitly contemplated by this Agreement shall be returned to Company no later than the time of the Final Reconciliation.

5.3 No later than twenty (20) days following the end of the Sale, the parties shall complete a final reconciliation and settlement of all amounts contemplated by this Agreement (the "Final Reconciliation").

6. EMPLOYEES

6.1 Consultant shall consult with Companies and Companies shall select and retain all Store Employees to be utilized as part of the Sale during the Sale Term.

6.2 Companies shall continue to apply historic practices and policies regarding its Store Employees and agrees to use its reasonable best efforts to ensure that as of the Sale Commencement Date the Stores will be staffed with historical levels of Store Employees or such other number of employees as is required to conduct the Sale, in consultation with Consultant.

6.3 Subject to Section 9.1 hereof, Consultant shall have no liability to the Store Employees (including any of Companies' former employees) of any kind or nature whatsoever, including without limitation, with respect to severance pay, termination pay, vacation pay, pay in

lieu of reasonable notice of termination, or any other expenses or liability arising from Companies' retention of such Store Employees prior to, during, and subsequent to the Sale.

7. REPRESENTATION AND WARRANTIES OF CONSULTANT

7.1 Consultant hereby represents, warrants and covenants in favor of Companies as follows:

(a) Consultant has taken all necessary action required to authorize the execution, performance and delivery of this agreement, and to consummate the transactions contemplated hereby.

(b) This Agreement is a valid binding obligation of Consultant enforceable in accordance with its terms, subject only to any applicable bankruptcy, insolvency or similar laws affecting the rights of creditors generally and the availability of equitable remedies.

(c) No action or proceeding has been instituted or, to Consultant's knowledge, threatened, affecting the consummation of this Agreement or the transactions contemplated herein.

8. REPRESENTATIONS AND WARRANTIES OF COMPANIES

8.1 Companies hereby represents, warrants and covenants in favor of Consultant as follows that subject to issuance of the Approval Order:

(a) Companies have taken all necessary action required to authorize their execution, performance and delivery of this Agreement, and to consummate the transactions contemplated hereby.

(b) This Agreement is a valid and binding obligation of each of the Companies enforceable in accordance with its terms, subject only to any applicable bankruptcy, insolvency or similar laws affecting the rights of creditors generally and the availability of equitable remedies.

(c) No action or proceeding has been instituted or, to Companies' knowledge, threatened, affecting the consummation of this Agreement or the transactions contemplated herein.

9. AFFIRMATIVE DUTIES OF CONSULTANT

9.1 Consultant shall reimburse, indemnify, defend and hold Companies and its officers, directors, agents, and employees, harmless from and against any damage, loss, expense (including reasonable attorneys' fees) or penalty, or any claim or action therefore, by or on behalf of any person, arising out of the performance or failure of performance of this Agreement by Consultant, or due to any acts or omissions by the Consultant or its employees, Supervisors, other agents or temporary Employees ("Employees"), including but not limited to breaches or violations of human rights legislation and the Consultants', Supervisors', and Employees'

payroll claims (wage claims, claims for taxes required to be withheld from wages, social security, etc.), unemployment compensation claims, or actions taken by Consultant or its Employees.

9.2 At the conclusion of the Sale, subject to Section 12 below, Consultant shall leave each Stores in broom clean condition, reasonable wear and tear excepted.

10. AFFIRMATIVE DUTIES OF COMPANIES

10.1 Companies shall be solely liable for, and shall pay weekly, all Sale Expenses as well as all taxes, costs, expenses, accounts payable and other liabilities relating to the Sale, the Stores, Store Employees, temporary Employees, and Companies business operations during the Sale.

10.2 Companies shall prepare and process all reporting forms, certificates, reports and other documentation required in connection with the payment of all applicable taxes for the Stores to the appropriate taxing authorities. Companies shall collect all sales taxes and remit to the appropriate taxing authorities in accordance with the applicable law.

10.3 Companies shall indemnify and hold Consultant and its agents, employees, principals and Supervisors harmless from and against any and all damages, fines, penalties, losses, claims or expenses (including, without limitation, reasonable attorneys' fees) that Consultant may incur or sustain arising out of Companies failure to pay over to the appropriate taxing authority any taxes required to be paid by Companies during the Sale Term in accordance with applicable law or to pay any liability referred to in Section 10.1 hereof.

10.4 Companies shall use all reasonable efforts to cause all Store Employees, and all other representatives and agents of the applicable Company to cooperate fully with Consultant and its Supervisors in connection with the Sale during the Sale Term.

10.5 Companies shall indemnify and hold Consultant and its agents, employees, principals and Supervisors harmless from and against all liabilities, claims, demands, damages, costs and expenses (including reasonable attorneys' fees) arising from or related to the (i) negligent acts or omissions of Companies or their agents, employees, in connection with the Sale, or (ii) the material breach by Companies of any of their obligations under this Agreement.

10.6 Companies shall coordinate access to the Companies' database for purposes of marketing the Sale. Any marketing or mass mailing, including any e-blasts or the like, are to be coordinated with Companies'.

10.7 Companies shall grant Consultant access to the Store premises for the duration of the Sale and shall provide central services and IT services to Consultant throughout the Sale.

11. INSURANCE

11.1 Companies shall maintain throughout the Sale Term, liability insurance policies (including, but not limited to, product liability, comprehensive public liability insurance and auto liability insurance) covering injuries to persons and property in or in connection with Companies

operation of the Stores. Companies' shall be responsible for the payment of all deductibles, self-insurance and other amounts payable in connection with any claim asserted under such policies, except for any claims arising directly from the negligence or willful misconduct of Consultant, or its employees, representatives, agents or Supervisors.

12. FIXTURES

12.1 Consultant shall sell the FF&E in the Stores for a commission equal to 15.0% of the gross proceeds generated from the sale of such assets (the "FF&E Fee").

12.2 Companies shall be responsible for all expenses incurred in selling, removing and/or disposing of such fixtures, which shall be agreed to and set forth in the Budget.

12.3 Consultant shall not be obligated to remove and may abandon in place unsold FF&E.

13. MISCELLANEOUS

13.1 The Companies shall seek Court approval of this Agreement and the Sale Guidelines pursuant to the Approval Order. The Companies and the Consultant expressly acknowledge and agree that the entering into of this Agreement by the Companies is subject to the issuance of the Approval Order approving, among other things, this Agreement, the Sale Guidelines and the conduct of the Sale and that should the Approval Order not be obtained, this Agreement shall have no force or effect.

13.2 This Agreement shall be governed by and interpreted in accordance with the internal laws of the Province of Ontario, without reference to any conflict of law provisions.

13.3 In the event any term or provision contained within this Agreement shall be deemed illegal or unenforceable, then such offending term or provision shall be considered deleted from this Agreement and the remaining terms shall continue to be in full force and effect.

13.4 This Agreement constitutes the entire agreement between the parties with respect of the subject matter hereof and supersedes all prior negotiations and understandings, and can only be modified by a writing signed by Companies and Consultant.

13.5 This Agreement shall inure to the benefit of, and be binding upon, the parties and their respective successors and permitted assigns.

13.6 This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original and such counterparts, together, shall constitute one and the same instrument. Delivery by facsimile of this Agreement or an executed counterpart hereof shall be deemed a good and valid execution and delivery hereof or thereof.

13.7 Nothing contained herein shall be deemed to create any relationship between Consultant and Companies other than that of an independent contractor. It is stipulated that the parties are not partners or joint venturers.

13.8 Except as may otherwise be directed by Companies, after the Sale Commencement Date, in Companies' discretion, Companies and Consultant shall accept returns of returned Merchandise sold and delivered to customers prior to the Sale Commencement Date. Consultant shall also honour all gift cards redeemed during the Sale.

13.9 All sales of Merchandise shall be by cash, debit or credit (no checks) and shall be "final" with no returns accepted or allowed. Sales receipts will be marked as "no refunds - no returns" or similar language.

13.10 Consultant agrees that it shall hold in confidence and keep confidential all confidential and proprietary information received in the course of the Sale and performance of the Services (the "Confidential Information"), and Consultant shall not use or directly or indirectly disclose or reproduce in any manner any such Confidential Information except as contemplated by this Agreement. Consultant agrees not to disclose any of the Confidential Information to any third party individual, corporation, partnership, or entity of any kind whatsoever, without first obtaining written consent from the Companies. Any permitted disclosure by the Consultant is also subject to Companies obtaining a mutually agreeable non-disclosure agreement consistent with the terms of this Agreement from the third party. The Consultant shall dispose of or return all Confidential Information at the termination of the Sale

IN WITNESS WHEREOF, Companies and Consultant hereby execute this Agreement by their duly authorized representatives as of the day and year first written above.

TIGER ASSET SOLUTIONS CANADA, ULC, LLC

By:

Name:

Title:

SCOTCH AND SODA RETAIL CANADA, INC.

By:

Filip Tufvesson

Name: Filip Tufvesson

Title: Director

SCOTCH AND SODA CANADA, INC.

By:

Filip Tufvesson

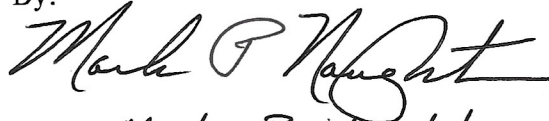
Name: Filip Tufvesson

Title: Director

IN WITNESS WHEREOF, Companies and Consultant hereby execute this Agreement by their duly authorized representatives as of the day and year first written above.

TIGER ASSET SOLUTIONS CANADA, ULC, LLC

By:



Name: *Mark P. Naughton*

Title: *Authorized Agent*

SCOTCH AND SODA RETAIL CANADA, INC.

By:

Name:

Title:

SCOTCH AND SODA CANADA, INC.

By:

Name:

Title:

Exhibit A
Stores

**Exhibit A
Store List**

Loc Number	Location Name	Location Address	Location City	Location Province	Postal Code
1	Richmond	6551 No 3 Rd	Richmond	BC	V6Y 2B6
2	Toronto Premium Outlets	13850 Steeles Avenue West	Halton Hills	ON	L7G 0J1
3	Eaton Centre	Eaton Centre	Toronto	ON	M5B 2H1
4	Laval	3035 Boulevard Le Carrefour	Laval	QC	H7T 1C8
4	Subtotal: Stores				

Exhibit B
Budget

Exhibit B

Scotch & Soda Canada Budget
--

Consultant Expenses⁽¹⁾:

Advertisement	\$27,450
Supervision ⁽²⁾	105,000
Total Consultant Exp.	\$132,450

Note(s):

(1) Assumes an 8.0-week Sale from Thu, 05/11 - Wed, 07/05.

(2) Includes 1 remote Lead and 1 part-time F/A Consultant.

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL
OF SCOTCH & SODA RETAIL CANADA INC. IN THE CITY OF TORONTO, IN
THE PROVINCE OF ONTARIO

Estate/Court File No.: 31-2941767
Estate/Court File No.: 31-2941764

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF SCOTCH & SODA CANADA INC. IN THE CITY OF TORONTO,
IN THE PROVINCE OF ONTARIO

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

PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF FILIP TUFVESSON

CASSELS BROCK & BLACKWELL LLP

2100 Scotia Plaza
40 King Street West
Toronto, ON M5H 3C2

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msassi@cassels.com

*Lawyers for Scotch & Soda Retail Canada Inc. and Scotch &
Soda Canada Inc.*

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF SCOTCH & SODA RETAIL CANADA INC. IN THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD

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*Lawyers for Scotch & Soda Retail Canada Inc. and
Scotch & Soda Canada Inc.*