

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-055622-183
Estate no.: 41-2448488

SUPERIOR COURT
(Commercial Division)

IN THE MATTER OF THE PROPOSAL OF:

C & E CANADA INC.

Debtor / Petitioner

-and-

RICHTER ADVISORY GROUP INC.

Trustee

PROPOSAL

**ARTICLE 1
INTERPRETATION**

1.1 Definitions

For all purposes relating to the present Proposal, the following terms shall have the following meanings:

"Bankruptcy Proceeding" means any deemed assignment into bankruptcy pursuant to section 57 of the BIA and all estate liquidation and administration proceedings related thereto.

"Bankruptcy Scenario" means an immediate liquidation of C&E Canada's remaining assets and distribution of proceeds of realization in a Bankruptcy Proceeding.

"BIA" means the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended.

"Business Day" means any day except Saturday, Sunday or any day on which banks are generally not open for business in Montréal, Québec.

"C&E Canada" means C & E Canada Inc.

"Claim" means any right of any Person against C&E Canada in connection with any indebtedness, liability or obligation of any nature whatsoever, including, without limitation, claims that are liquidated, unliquidated, fixed, contingent, matured, unmatured, legal, equitable, present, future, known, unknown, disputed, undisputed or whether by

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guarantee, by surety, by subrogation or otherwise incurred and whether or not such a right is executory in nature, incurred or arising or related to the period prior to the Filing Date, or based in whole or in part on facts, contracts or arrangements which occurred or existed prior to the Filing Date, including, for greater certainty, any right of any Person against C&E Canada arising pursuant to sections 65.11 or 65.2 of the BIA. For greater certainty, a Claim does not include a Post-Filing Claim.

"Court" means the Superior Court of Québec.

"Creditors" means the holders of Claims.

"Creditors' Fund" has the meaning ascribed to it in Article 2.3 of this Proposal.

"Creditors' Meeting" means the meeting of Creditors to be held for the purpose of considering and voting upon this Proposal, and any adjournment(s) of such meeting.

"Creditors' Meeting Date" means such date and time as may be set by the Proposal Trustee, but in any event no later than 21 days following the filing of this Proposal with the Official Receiver.

"Crown Priority Claims" means all amounts owing to Canada Revenue Agency that could be subject to a demand under subsection 224(1.2) of the *Income Tax Act*, RSC 1985, c 1 (5th Supp) or under any substantially similar provision of provincial legislation as at the Filing Date.

"Crown Priority Creditors" means the holders of Crown Priority Claims.

"D&O Claim" means the right of any Person against one or more of the Directors or Officers howsoever arising, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including the right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, including any right of contribution or indemnity, for which any Director or Officer is alleged to be, by statute or otherwise, liable to pay in his or her capacity as a Director or Officer.

"Directors" means all current and former directors (or their estates) of C&E Canada, in such capacity, and **"Director"** means any one of them.

"Disputed Claim" means any Claim or D&O Claim which has been received by the Proposal Trustee in accordance with the terms of this Proposal and the BIA, but has not been accepted as proven in accordance with section 135 of the BIA or which is being disputed in whole or in part by the Proposal Trustee, or any other person entitled to do so and has not been resolved by agreement or by order of the Court.

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"Effective Date" means two (2) Business Days following the satisfaction of the conditions listed in Article 4 of this Proposal.

"Employee Claim Notice" has the meaning ascribed to it in Article 3.4 of this Proposal.

"Employee Claims" means Employee Priority Claims and Employee Statutory Claims.

"Employee Statutory Claims" means any Unsecured Claims of the former employees of C&E Canada on account of any right to prior notice of termination under the *Act respecting labour standards*, CQLR c N-1.1 and similar statutes in other provinces of Canada, other than, for greater certainty, Employee Priority Claims.

"Employee Priority Claims" means any Claims of the former employees of C&E Canada to be paid in accordance with section 60(1.3) of the BIA.

"Employee Priority Creditors" means the holders of Employee Priority Claims.

"Filing Date" means November 28, 2018.

"Final Contribution" has the meaning ascribed to it in Article 2.7(b) of this Proposal.

"Final Distribution" has the meaning ascribed to it in Article 2.9 of this Proposal.

"Final Dividend Notice" has the meaning ascribed to it in Article 3.1 of this Proposal.

"Harvey" means Harvey Supply Chain International, LLC.

"Initial Fund Contribution" has the meaning ascribed to it in Article 2.7(a) of this Proposal.

"Interim Distribution" has the meaning ascribed to it in Article 2.9 of this Proposal.

"Inspectors" means the inspectors that are or may be appointed pursuant to section 56 of the BIA.

"Landlord Claims" means any and all Unsecured Claims in respect of or arising from a lease for immovable property or real property, including without limitation Landlord Disclaimer Claims but, for greater certainty, excluding any Preferred Claims.

"Landlord Disclaimer Claims" has the meaning ascribed to it in Article 2.6 of this Proposal.

"Liquidation" has the meaning ascribed to it in Article 2.1 of this Proposal.

"NOI" has the meaning ascribed to it in Article 2.1 of this Proposal.

"Officers" means all current and former officers (or their estates) of C&E Canada, in such capacity, and **"Officer"** means any one of them.

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"Official Receiver" means a federal government employee in the office of the Superintendent of Bankruptcy who, among other things, accepts and reviews documents that are filed in BIA proposals.

"Pension Priority Claims" means all amounts required to be paid under section 60(1.5) of the BIA, subject to the limitations set out under section 60(1.6) of the BIA.

"Pension Priority Creditors" means the holders of Pension Priority Claims.

"Person" is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, the government of a country or any political subdivision thereof, or any agency or department of any such government, and the liquidators, executors, administrators or other legal representatives of an individual in such capacity.

"Post-Filing Claim" means a claim arising in respect of goods supplied, services rendered or other consideration given to C&E Canada subsequent to the Filing Date.

"Preferred Claims" means that portion of a Claim that is accepted by the Proposal Trustee as entitling the Preferred Creditor to receive payment in priority to other Proven Creditors as provided in section 136 of the BIA.

"Preferred Creditors" means the holders of Preferred Claims.

"Professional Fees" means all proper fees, expenses, liabilities and obligations of C&E Canada or the Proposal Trustee and their legal fees, accounting fees and consulting fees arising out of the Proposal Proceedings and any claims therein, and includes, for greater certainty, any agents retained by C&E Canada or the Proposal Trustee.

"Proof of Claim" means the form to be delivered by the Creditors to the Proposal Trustee in accordance with the BIA.

"Proposal" means this Proposal, as may be further varied, amended, modified or supplemented in accordance with the provisions hereof and the BIA.

"Proposal Approval Order" means an order of the Court, in form and substance satisfactory to C&E Canada and the Proposal Trustee, approving and sanctioning this Proposal in accordance with the provisions hereof and of the BIA.

"Proposal Proceedings" means the restructuring and liquidation sale proceedings commenced by C&E Canada pursuant to section 50.4 of the BIA on the Filing Date.

"Proposal Trustee" means Richter Advisory Group Inc., in its capacity as proposal trustee of C&E Canada in the Proposal Proceedings.

"Proven Claim" means the amount or any portion of a Claim that is accepted as proven by the Proposal Trustee pursuant to section 135 of the BIA and determined for distribution

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purposes in accordance with the provisions of the BIA or any applicable orders from the Court.

"Proven Creditors" means the holders of Proven Claims.

"Related Persons" means "related persons" (as defined in section 4(2) of the BIA) to C&E Canada.

"Released D&O Claims" means all D&O Claims that are released pursuant to Article 8 of this Proposal.

"Released Parties" has the meaning ascribed to it in Article 8 of this Proposal.

"Required Majority" means a majority in number and two-thirds in value of all Proven Claims of Creditors entitled to vote, who are present and voting at the Creditors' Meeting (whether in person, by proxy or by voting letter) in accordance with the voting procedures established by this Proposal and the BIA.

"Secured Claims" means the Claims of any Secured Creditors, to the extent of the value of the security held by the Secured Creditors.

"Secured Creditors" means any "secured creditors" (as defined in section 2 of the BIA) of C&E Canada.

"Special Distribution Fund" has the meaning ascribed to it in Article 2.5 of this Proposal.

"Superintendent's Levy" has the meaning attributed to it in section 147 of the BIA and is payable to the Superintendent in Bankruptcy.

"Superintendent in Bankruptcy" has the meaning attributed to it in section 5 of the BIA.

"Unsecured Claims" has the meaning ascribed to it in Article 2.4(h) of this Proposal.

1.2 Date for Any Action

In the event that any date on which any action is required to be taken under this Proposal by any of the parties is not a Business Day, the action shall be required to be taken on the next day which is a Business Day.

1.3 Time

All times expressed in this Proposal are local time in Montréal, Québec, unless stipulated otherwise.

1.4 Section References

In this Proposal, a reference to section, clause or paragraph shall, unless otherwise stated, refer to a section, clause or paragraph of the Proposal.

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1.5 Statutory References

Any reference in this Proposal to a statute includes all regulations made thereunder and all amendments to such statutes or regulations in force from time to time.

1.6 Monetary References

All references to currency and to "\$" are to Canadian dollars, unless otherwise indicated.

1.7 Gender and Number

Any reference in this Proposal to gender includes all genders. Words importing the singular number only include the plural and vice versa.

ARTICLE 2 PROPOSAL

2.1 Background to Proposal

On November 28, 2018, C&E Canada filed a Notice of intention to file a proposal ("**NOI**") under the BIA in order to, among other things, conduct an orderly and supervised liquidation process and wind-down of its operations. The Proposal Trustee was appointed as the Proposal Trustee for C&E Canada.

On November 30, 2018, the Court approved the Letter Agreement Governing Inventory Disposition between C&E Canada and Gordon Brothers Canada ULC which outlined the proposed liquidation of C&E Canada's inventory (the "**Liquidation**"). The Liquidation was completed on or about December 27, 2018. C&E Canada also collected certain receivables associated with its wholesale business and sold some inventory through its e-commerce platform. In parallel, all retail store leases were disclaimed effective on or before December 31, 2018.

The time period for C&E Canada to file a proposal pursuant to the BIA and the stay of proceedings under C&E Canada's NOI were extended by order of the Court to February 15, 2019.

2.2 Overview of Proposal

This Proposal is designed to allow C&E Canada to distribute the net proceeds of the Liquidation and from its remaining assets to the Proven Creditors in a manner that will result in Proven Creditors receiving a higher and more expeditious distribution on account of their Proven Claims than in a Bankruptcy Scenario.

2.3 Proposed Contributions

The Initial Fund Contribution and the Final Contribution (together, the "**Creditors' Fund**") will be available for distribution in accordance with Articles 2.4 and 2.9 of this Proposal.

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2.4 Proposed Distributions

Subject to the terms and conditions set forth in this Proposal, and the payment of the Superintendent's Levy (as applicable), the following payments will be made from the Creditors' Fund:

- (a) Professional Fees: subject to Article 6.2 of this Proposal and the provisions of the BIA, the Professional Fees will be paid in full as they become due.
- (b) Crown Priority Claims: all Crown Priority Claims that were outstanding as at the Filing Date, if any, shall be paid in full to Her Majesty the Queen in right of Canada or a province or territory, as applicable, within six months after the issuance of the Proposal Approval Order.
- (c) Employee Priority Claims: all Employee Priority Claims, if any, will be paid in full in amounts determined by the Proposal Trustee pursuant to section 135 of the BIA.
- (d) Pension Priority Claims: all Pension Priority Claims that were outstanding as at the Filing Date, if any, shall be paid in full within six months after the issuance of the Proposal Approval Order.
- (e) Superintendent's Levy: the Superintendent's Levy shall be paid in full.
- (f) Secured Claims: any Secured Claims will be paid in full in amounts determined by the Proposal Trustee pursuant to section 135 of the BIA. To the knowledge of C&E Canada, there are no Secured Creditors.
- (g) Preferred Claims: any remaining Preferred Claims (after the payments provided in Articles 2.4(a) to (f)) of this Proposal have been made, or reserves taken therefor) shall be paid without interest in priority to the Proven Claims addressed by Article 2.4(h) of this Proposal.
- (h) Unsecured Claims: The remaining balance of the Creditors' Fund (subject any reserves taken to satisfy the payments provided in Articles 2.4(a) to (h) of this Proposal) shall be distributed to the holders of Proven Claims not addressed by Articles 2.4(a) to (d) and (f) to (h) of this Proposal ("**Unsecured Claims**") as follows:
 - (i) the lesser of \$3,000 or the amount of the Proven Claim; and
 - (ii) for Creditors with a Proven Claim in excess of \$3,000, for the portion of such Proven Claim in excess of \$3,000, such Creditors will receive an amount equal to their pro rata share of the amounts remaining available from the Creditor's Fund relative to the aggregate value of the Proven Claims not addressed by Articles 2.4(a) to (d) and (f) to (h)(i) of this Proposal.

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2.5 Special Distribution Fund

Notwithstanding Article 2.4(h), Harvey directs the Proposal Trustee to retain the sum of \$150,000 from the amounts otherwise payable to Harvey in respect of Harvey's Proven Claim (without deduction of the Superintendent's Levy) (the "**Special Distribution Fund**") and to distribute the Special Distribution Fund as follows, in addition to any distribution to which such Creditors are entitled to under Article 2.4:

- (a) \$20,000 on a pro rata basis to holders of Employee Statutory Claims or such lesser amount which satisfies the Employee Statutory Claims in full;
- (b) \$100,000 on a pro rata basis to holders of Landlord Claims or such lesser amount which satisfies the Landlord Claims in full; and
- (c) The balance of the Special Distribution Fund, after the distributions provided by Articles 2.5(a) and (b), on a pro rata basis to holders of Unsecured Claims other than Harvey, Crabtree & Evelyn, Ltd., holders of Employee Statutory Claims and holders of Landlord Claims.

The Proposal Trustee shall distribute all funds from the Special Distribution Fund no later than on the date of the Final Distribution. For greater certainty, Harvey and Crabtree & Evelyn, Ltd. shall be entitled to receive all distributions to which they are entitled under this Proposal, other than the Special Distribution Fund.

2.6 Landlord Disclaimer Claims

In the case of any lease of immovable or real property disclaimed by C&E Canada pursuant to section 65.2 of the BIA, the landlord affected by the disclaimer may file a Proof of Claim for the lesser of: (i) the total rent set out in the lease for one year after the disclaimer becomes effective plus 15 percent of the rent for the rest of the term of the lease; and (ii) the total rent set out in the lease for three years after the disclaimer becomes effective ("**Landlord Disclaimer Claims**").

2.7 Timing and Payment to the Proposal Trustee

Provided that the Proposal is accepted by the Required Majority of the Creditors and that the Proposal Approval Order is granted by the Court,

- (a) C&E Canada shall remit its cash on hand, subject to any reserve for Post-filing Claims (the "**Initial Fund Contribution**"), to the Proposal Trustee within five (5) Business Days following the issuance of the Proposal Approval Order; and
- (b) C&E Canada shall remit the net cash proceeds from the realization of C&E Canada's remaining assets as at the date of this Proposal, including proceeds resulting from collection of any outstanding accounts receivable and disposition of any remaining inventory (the "**Final Contribution**") to the Proposal Trustee as soon as reasonably practicable following receipt.

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2.8 Effect of Payment

Upon C&E Canada making the Initial Fund Contribution payment into the Creditors' Fund in accordance with this Proposal, C&E Canada, its successors and assigns, and its directors shall be deemed to have fully satisfied the terms of this Proposal other than with respect to the Final Contribution.

The determination of which payment properly constitutes the Final Contribution into the Creditors' Fund by C&E Canada shall be determined by C&E Canada, acting reasonably, in consultation with the Proposal Trustee.

2.9 Timing of Distributions to Proven Creditors

Subject to Article 2.5 and Article 7, the Proposal Trustee shall proceed with an interim distribution of such proportion of the Creditors' Fund as the Proposal Trustee may deem appropriate to Proven Creditors on account of Proven Claims, in accordance with Article 2.4, no later than thirty (30) days following the Effective Date (the "**Interim Distribution**"). Notwithstanding the previous sentence, for greater certainty, any Crown Priority Claims may be paid by the Trustee at any earlier or later time which is in accordance with Article 2.4(b).

As soon as reasonably practicable thereafter, the Proposal Trustee shall proceed with a final distribution of the Creditors' Fund to Proven Creditors on account of Proven Claims in accordance with Article 2.4 (the "**Final Distribution**").

The Interim Distribution and the Final Distribution shall be by cheque sent by prepaid ordinary mail to the last known address of each applicable Proven Creditor, or through such other method as the Proposal Trustee may deem appropriate.

2.10 Persons Affected

The Proposal provides for a full and final release and discharge of all Claims and Released D&O Claims and a settlement of Claims. The Proposal will become effective at 12:01 a.m. on the Effective Date in accordance with its terms and shall be binding on and enure to the benefit of C&E Canada and other Persons directly or indirectly named or referred to in or subject to the Proposal.

On the Effective Date in accordance with the terms of this Proposal and in accordance with the provisions of the Proposal Approval Order, the treatment of all Claims and Released D&O Claims shall be final and binding on C&E Canada, the Officers and Directors, all Creditors (and their respective heirs, liquidators, executors, administrators, legal and personal representatives, successors and assigns), and all Claims and Released D&O Claims shall be fully, finally, irrevocably and forever released, discharged, cancelled and barred, and C&E Canada and the Directors and Officers shall thereupon have no further obligation whatsoever in respect of the Claims and Released D&O Claims; provided that nothing herein releases C&E Canada or any other Person from their obligations to make distributions in the manner and to the extent provided for in the Proposal and provided further that such discharge and release of C&E Canada and the

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Directors and Officers shall be without prejudice to the right of a Creditor in respect of a Disputed Claim to prove such Disputed Claim in accordance with the BIA so that such Disputed Claim may become a Proven Claim.

ARTICLE 3 PROCESS, VALUATION OF CLAIMS, CLASSIFICATION OF CREDITORS AND RELATED MATTERS

3.1 Claims Process

In order to be eligible to vote at the Creditors' Meeting, each Creditor shall file a Proof of Claim with the Proposal Trustee in accordance with the applicable provisions of the BIA, and shall specify every Claim and every D&O Claim it asserts against C&E Canada and/or the Directors and Officers, as applicable. Thereafter, pursuant to section 135 of the BIA, the Proposal Trustee shall examine every Proof of Claim and determine whether such Claims are Proven Claims or Disputed Claims, and whether such Claims are Crown Priority Claims, Employee Priority Claims, Pension Priority Claims, Preferred Claims or Secured Claims, as applicable.

In order to receive a distribution from the Creditors' Fund, a Creditor must submit a Proof of Claim prior to the time the Proposal Trustee distributes funds in accordance with the Proposal and the BIA.

In accordance with section 149 of the BIA, prior to the Final Distribution, the Proposal Trustee shall give notice (the "**Final Dividend Notice**") by mail to every Person with a Claim of which the Proposal Trustee has notice or actual knowledge but who did not file a Proof of Claim.

3.2 Claims for Voting Purposes

Each Creditor (other than Secured Creditors, Crown Priority Creditors, Employee Priority Creditors and Pension Priority Creditors) shall be entitled to a single vote valued at the amount of its Claim or a portion of its Claim, if any, that has been accepted by the Proposal Trustee for voting purposes without prejudice to the rights of C&E Canada, the Proposal Trustee and the Creditor to have the quantum of any Disputed Claim finally determined for the purposes of receiving its share of the Creditors' Fund, if any, or for the purposes of determining whether this Proposal was approved by the Required Majority.

For greater certainty, Secured Creditors, Crown Priority Creditors, Employee Priority Creditors and Pension Priority Creditors shall not be entitled to vote their Secured Claims, Crown Priority Claims, Employee Priority Claims and Pension Priority Claims, respectively.

Without limiting the foregoing, Disputed Claims shall be tracked by the Proposal Trustee as if such claims were Proven Claims but Disputed Claims will not be considered for the purposes of determining the Required Majority. The Proposal Trustee will report to the Court on the impact on the Required Majority had the Disputed Claims constituted accepted claims for voting purposes.

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3.3 Deemed Votes

Any Creditor, other than a Preferred Creditor, holding a Proven Claim which is to be paid in full hereunder shall be conclusively deemed to vote in favour of this Proposal, unless and until such Creditor votes against the Proposal in accordance herewith and with the BIA.

Likewise, any employee who was sent an Employee Claim Notice and who has not filed a Proof of Claim prior to the Creditors' Meeting shall be conclusively deemed to vote in favour of this Proposal, unless and until such employee votes against the Proposal in accordance herewith and with the BIA.

3.4 Employee Claims

Concurrently with a copy of this Proposal and such other documents as may be required by the BIA or otherwise desirable, the Proposal Trustee shall send to each known holder of an Employee Claim a notice setting out the employee's Employee Claim (an "Employee Claim Notice").

Each employee whom is in agreement with the Employee Claim Notice shall not be required to file a Proof of Claim and his or her Proven Claim shall be conclusively deemed to be as set forth in the Employee Claim Notice, for voting and distribution purposes under the Proposal. Any employees who do not agree with the amount of their claim as set forth in the Employee Claim Notice shall complete and file with the Proposal Trustee a Proof of Claim in respect of their Claims, prior to the Creditors' Meeting if they wish to vote on the Proposal, together with any and all supporting documents, and a proper statement of account, which Proof of Claim shall be dealt with pursuant to the BIA.

3.5 Disputed Claims

Any Creditor with a Disputed Claim shall not be entitled to receive any distribution hereunder with respect to such Disputed Claim unless and until such Claim becomes a Proven Claim. Distributions pursuant to Article 2.4 of this Proposal shall be made in respect of any Disputed Claim that is finally determined to be a Proven Claim.

3.6 D&O Claims

All Released D&O Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred without consideration on the Effective Date. Any D&O Claim that is not a Released D&O Claim will not be compromised, released, discharged, cancelled and barred.

3.7 Claims Bar

Any Person who does not file its Claim or D&O Claim within thirty days of the issuance of the Final Dividend Notice, shall forever be barred from making a Claim or D&O Claim or sharing in any dividend hereunder, subject to any exception set out in sections 149(2),

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(3), (4) and 150 of the BIA, regardless of whether such Person was sent a Final Dividend Notice or whether such Person received such Final Dividend Notice.

3.8 Class of Creditors

For the purpose of considering and voting upon and receiving distributions under this Proposal, there shall be one class of unsecured Creditors.

3.9 Compensation and Set-Off

The law of compensation and set-off applies to all Claims.

3.10 Creditors' Meeting, Proxies and Voting Letters

The Creditors' Meeting will be held on the Creditors' Meeting Date at a location to be determined and provided to all known Creditors in accordance with the BIA.

Proxies, as provided for in the BIA, indicating a Person authorized to act on behalf of a Proven Creditor, may be submitted to the Proposal Trustee at, or any time prior to, the commencement of the vote on the Proposal at the Creditors' Meeting.

Voting letters, as provided for in the BIA, submitted to the Proposal Trustee prior to the Creditors' Meeting must indicate whether the Creditor wishes to cast its vote in favour of or against the Proposal. Voting letters that do not indicate either preference will be deemed to indicate a vote in favour of the Proposal.

Related Persons may vote against but not in favour of the Proposal.

Persons in attendance at the Creditors' Meeting who are eligible to vote shall cast their vote in the manner prescribed by the Proposal Trustee and the BIA. All votes will be recorded and tabulated by the Proposal Trustee, who may seek the assistance of the Court with respect to any dispute arising from or out of the tabulation of votes. For greater certainty, any Secured Creditors and Preferred Creditors shall not be entitled to vote the value of their Secured Claims and Preferred Claims, respectively.

A quorum shall be constituted for the Creditors' Meeting or any adjournment thereof if there is one Creditor, entitled to vote, present in person or by proxy or if one Creditor, entitled to vote, has submitted a voting letter in accordance with the provisions of the BIA and this Proposal. If the requisite quorum is not present at the Creditors' Meeting or if the Creditors' Meeting has to be postponed for any reason, then the Creditors' Meeting shall be adjourned by the Proposal Trustee to such date, time and place as determined by the Proposal Trustee.

3.11 Approval by Creditors

In order to be approved, the Proposal must receive the affirmative vote of the Required Majority.

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3.12 Modification of the Proposal

Subject to the consent of the Proposal Trustee, at any time prior to the Creditors' Meeting or at any time prior to the date to which the Creditors' Meeting is adjourned, if it is adjourned, C&E Canada reserve the right to file any modification, amendment or supplement of and to the Proposal, by way of amended proposal, and file such amended proposal with the Official Receiver as soon as practical, in which case any such amended proposal or proposals shall, for all purposes, be and be deemed to be part of and incorporated into the Proposal.

At the Creditors' Meeting, the Proposal Trustee shall provide all Creditors in attendance with details of any modifications or amendments of and to the Proposal prior to the vote being taken to approve the Proposal. After the Creditors' Meeting (and both prior to and subsequent to the issuance of the Proposal Approval Order) and subject to the consent of the Proposal Trustee, C&E Canada may at any time and from time to time vary, amend, modify or supplement the Proposal if the Court determines that such variation, amendment, modification or supplement is of a minor, immaterial or technical nature or would not be materially prejudicial to the interest of any of the Creditors under the Proposal and is necessary in order to give effect to the substance of the Proposal or the Proposal Approval Order.

ARTICLE 4 CONDITIONS PRECEDENT TO THE IMPLEMENTATION OF THE PROPOSAL

The implementation of the Proposal and distribution thereunder is subject to the satisfaction of the following conditions precedents:

- (a) The Proposal is approved by the Required Majority;
- (b) The Proposal Approval Order has been issued and has not been stayed and there is no outstanding appeal therefrom; and
- (c) All other actions, documents and agreements necessary to implement the Proposal, including, without limitation, payment to the Proposal Trustee of the Initial Fund Contribution as required herein, shall have been effected and executed.

With respect to the Proposal Approval Order, if approval by the Required Majority is obtained, the Proposal Trustee shall file with the Court an application for the Proposal Approval Order no later than five Business Days following the Creditors' Meeting or such other date as the Court may order, which application shall be heard as soon as possible according to the procedure set out in section 58 of the BIA.

ARTICLE 5 BINDING EFFECT

On the Effective Date, this Proposal will become effective and binding on and enure to the benefit of C&E Canada and all Creditors affected by this Proposal and all other



Persons named or referred to in, or subject to, this Proposal, and their respective heirs, liquidators, executors, administrators and other legal representatives, successors and assigns. Without limiting the generality of the foregoing, on the Effective Date, all Creditors shall be deemed to have consented and agreed to all of the provisions of the Proposal in its entirety.

ARTICLE 6 PROPOSAL TRUSTEE, MONITORING AND ADMINISTRATIVE COSTS

6.1 Liability of Proposal Trustee

The Proposal Trustee is acting in its capacity as Proposal Trustee and not in its personal capacity and no officer, director, employee or agent of the Proposal Trustee shall incur any obligations or liabilities in connection with the Proposal or in connection with the business or liabilities of C&E Canada.

6.2 Fees of the Proposal Trustee

The Proposal Trustee's fees and disbursements, including, without limitation, the Proposal Trustee's legal costs, arising out of this Proposal and under the BIA shall be paid by C&E Canada as Professional Fees under this Proposal. The fees for the Proposal Trustee's services will be based on time spent by the Proposal Trustee and the various members of its staff at their respective billing rates plus any direct out of pocket expenses incurred. The Proposal Trustee's legal costs will be based on time spent by the Proposal Trustee's legal counsel and the various members of such legal counsel's staff at their respective billing rates plus any direct out of pocket expenses incurred. The Court shall review and approve the Proposal Trustee's fees and disbursements. The Proposal Trustee will be entitled to take regular interim fees upon Creditor, Inspector or Court approval.

ARTICLE 7 INSPECTORS

At the Creditors' Meeting, the Creditors will be entitled to appoint one or more, but not exceeding three, Inspectors, whose powers shall be as follows:

- (a) advising the Proposal Trustee in respect of such matters as may be referred to the Inspectors by the Proposal Trustee;
- (b) advising the Proposal Trustee concerning any dispute that may arise as to the validity of the Claims asserted in this Proposal;
- (c) exercising all powers given to the Inspectors of a bankrupt estate appointed pursuant to the provisions of the BIA; and
- (d) altering or extending the time for payments to be made pursuant to this Proposal, but not the total amount paid.

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The Inspectors shall not have liability to the Creditors or C&E Canada for exercising any of the powers given to them under this Proposal or the BIA.

ARTICLE 8 RELEASES

On the Effective Date, (i) C&E Canada's employees and contractors, each Director and Officer of C&E Canada, and their respective heirs and assigns, and (ii) the Proposal Trustee, the Proposal Trustee's counsel, and each and every present and former shareholder, affiliate, subsidiary, director, officer, member, partner, employee, auditor, financial advisor, legal counsel and agent of any of the foregoing Persons (each of the Persons named in (i) or (ii) of this Article 8, in their capacity as such, being herein referred to individually as a "**Released Party**" and all referred to collectively as "**Released Parties**") shall be released and discharged from any and all demands, claims, actions, causes of action, counterclaims, suits, debts, sums of money, taxes, accounts, covenants, damages, judgments, orders, including for injunctive relief or specific performance and compliance orders, expenses, executions, encumbrances and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature, including claims for contribution or indemnity which any Creditor or other Person may be entitled to assert, including claims that are liquidated, unliquidated, fixed, contingent, matured, unmatured, legal, equitable, present, future, known, unknown, disputed, undisputed or whether by guarantee, by surety, by subrogation or otherwise incurred and whether or not such a right is executory in nature, based in whole or in part on any act, omission, transaction, duty, responsibility, indebtedness, liability, obligation, negligence, breach of fiduciary duty, dealing or other occurrence existing or taking place on or prior to the Effective Date that constitute or are in any way relating to, arising out of or in connection with any Claims, and any indemnification obligations with respect thereto, the business and affairs of C&E Canada whenever or however conducted, the administration and/or management of C&E Canada, the Proposal, or any document, instrument, matter or transaction involving C&E Canada taking place in connection with the Proposal, shall be deemed to be fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties, all to the fullest extent permitted by governing law; provided that nothing herein will waive, discharge, release, cancel or bar (a) the right to enforce C&E Canada's obligations under the Proposal, or (b) any D&O Claim that is not permitted to be released pursuant to section 50(14) of the BIA.

ARTICLE 9 GENERAL

9.1 Post-filing Claims

Post-filing Claims shall be paid in full by C&E Canada in the ordinary course of business, and on regular trade terms, prior to the payment of the Final Contribution into the Creditors' Fund to the Proposal Trustee.

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9.2 Reviewable Transactions

The provisions of Sections 95 to 101.1, inclusively, of the BIA and any similar provision of any federal or provincial statute shall not apply to this Proposal. Without limiting the generality of the foregoing, on the Effective Date, Creditors shall be deemed to renounce and waive, with respect to C&E Canada and the Released Parties, any applicability of sections 95 to 101.1 of the BIA, of the paulian action described at sections 1631 and following of the Civil Code of Québec, and of all other recourses of a similar nature.

9.3 Paramountcy

From and after the Effective Date, any conflict between the covenants, warranties, representations, terms, conditions or obligations, expressed or implied, of any contract, hypothec, mortgage, security agreement, indenture, trust indenture, loan agreement, commitment letter, agreement for sale, by-laws of C&E Canada, lease or other agreement, whether written or oral, and any and all amendments or supplements thereto existing between any third party and C&E Canada as at the Effective Date will be deemed to be governed by the terms, conditions and provisions of the Proposal, which shall take precedence and priority.

9.4 Further Assurances

Each of the Persons named or referred to in, or subject to, this Proposal will execute and deliver all such documents and instruments and do all such actions and things as may be necessary or desirable to carry out the full intent and meaning of this Proposal and to give effect to the transactions contemplated herein.

9.5 Governing Law

This Proposal will be governed by and construed in accordance with the laws of the Province of Québec and the laws of Canada applicable therein.

9.6 Language

This Proposal was drafted in English. In case of discrepancy, the English version shall prevail over any translation.

9.7 Report of the Proposal Trustee

The Proposal Trustee will prepare a report on the Proposal, which will be filed with the Official Receiver and the Court and distributed to Creditors pursuant to the BIA.

9.8 Annulment

If the Proposal is annulled by an order of the Court, all payments on account of Claims made pursuant to the terms of this Proposal will reduce the Claims of the applicable Creditors.

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[SIGNATURE PAGE FOLLOWS]

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Dated this 12th day of February, 2019.

C & E CANADA INC.

By: 

Name: Maral Bai

Title: Director

ACKNOWLEDGMENT AND INTERVENTION

The following parties acknowledge having read the above Proposal and agree to all of its terms, including without limitation Article 2.5 thereof:

**HARVEY SUPPLY CHAIN
INTERNATIONAL, LLC**

By: 

Name: STUART BLINDER

Title: COMPANY SECRETARY

CRABTREE & EVELYN, LTD.

By: 

Name: DAVID STERN

Title: DIRECTOR