

COURT FILE NUMBER:

**1601-05249**

COURT OF QUEEN'S BENCH OF  
ALBERTA

JUDICIAL CENTRE OF

**CALGARY**

APPLICANT:

**BANK OF MONTREAL**

RESPONDENT(S):

**GRAF CANADA LTD.**

DOCUMENT:

**APPLICATION RECORD**

April 21, 2016

**CASSELS BROCK & BLACKWELL  
LLP**

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

Larry Ellis LSUC#: 49313K

Tel: 416.869.5406

Fax: 416.640.3004

lellis@casselsbrock.com

Lawyers for the Plaintiff

## TABLE OF CONTENTS

TAB	EXHIBITS	DOCUMENT
1		Notice of Application, returnable April 27, 2016
2		Affidavit of Hugh Devlin, sworn April 20, 2016
	A.	Initial Credit Agreements
	B.	General Security Agreement
	C.	Alberta PPSA Registration Result against Graf Canada
	D.	Term Sheet
	E.	Cash Collateral Security Agreements
	F.	Alberta PPSA and Ontario PPSA Registration against Graf Canada
	G.	The Application for Credit and Promise to give Bills of Lading, Warehouse Receipts or Security under Section 427 of the Bank Act dated October 21, 2015;  Agreement as to Loans and Advances and Security dated October 21, 2015 and;  Security under Section 427(1) of the Bank Act dated October 12, 2015.
	H.	Search of the Notices of Intention to give security under the Bank Act registered in the Province of Alberta revealing this registration
	I.	Initial Forbearance Agreement, including the Initial Cash Flow
	J.	Assignment of Material Contracts
	K.	Consent and Non-Disturbance Agreement
	L.	Amending Agreement which includes the Revised Cash Flow
	M.	Demand and the Notice of Intention to enforce security
	N.	Consent to Earlier Enforcement
	O.	Alberta PPSA and the Ontario PPSA registration search results
	P.	Consent to Act of Richter
3.		Receivership Order
4.		Blackline Receivership Order

# Tab 1

Clerk's stamp:

COURT FILE NUMBER

1601-05249

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

APPLICANT

BANK OF MONTREAL

RESPONDENT

GRAF CANADA LTD.

DOCUMENT

APPLICATION

ADDRESS FOR SERVICE AND CONTACT  
INFORMATION OF PARTY FILING THIS  
DOCUMENT

Cassels Brock & Blackwell LLP  
40 King Street West  
Suite 2100  
Toronto, Ontario  
M5H 3C2

Attn: Larry Ellis  
Tel: 416-869-5406  
Fax: 416-640-3004  
E-mail: tellis@casselsbrock.com

**NOTICE TO RESPONDENTS: Graf Canada Ltd.**

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Judge.

To do so, you must be in Court when the application is heard as shown below:

Date:	April 27, 2016
Time:	10:30 a.m.
Where:	Calgary Courts Centre 601 5th St SW Calgary, AB T2P 5P7
Before Whom:	The Honourable Mr. Justice Jeffrey

Go to the end of this document to see what you can do and when you must do it.



**Remedy Claimed or Sought:**

1. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Affidavit of Hugh Devlin, sworn April 20, 2016 (the "**Devlin Affidavit**").
2. Bank of Montreal ("**BMO**") respectfully seeks an Order in the form attached as Schedule "A":
  - (a) declaring that the time for service of the Application be abridged, that the Application is properly returnable today and that further service of the Application be dispensed with;
  - (b) appointing Richter Advisory Group Inc., pursuant to Section 243 of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") and Section 13 of the *Judicature Act* (Alberta) as receiver and manager (the "**Receiver**") without bond, of all of the assets, undertakings and properties of Graf Canada Ltd., (the "**Borrower**"); and
  - (c) such further and other relief as this Honourable Court may deem just and appropriate.

**Grounds for Making this Application:**

**The Indebtedness**

3. Pursuant to a Term Sheet dated March 25, 2014 (the "**Credit Agreement**") among, inter alia, the Borrower and BMO, BMO has extended to the Borrower (i) a demand revolving credit facility (the "**Revolving Credit Facility**") and (ii) a demand Mastercard facility (the "**Mastercard Facility**") and together with the Revolving Credit Facility, the "**Credit Facilities**").

4. In connection with the Credit Facilities, BMO has advanced funds to the Borrower and, as of April 15, 2016 is owed CDN\$1,696,792.16 and USD\$1,530,485.65.
5. The foregoing amounts are accruing interest at the contractually agreed rates. The Borrower is additionally indebted to BMO for all of BMO's accruing costs, including legal costs. All amounts owed by the Borrower to BMO are hereafter collectively referred to as the "**Indebtedness**".

#### **BMO's Security**

6. In accordance with, and to secure the obligations owing to the BMO under the Credit Agreement, the Borrower executed and delivered to BMO, among other things, the following:
  - (a) a security interest in all present and after-acquired property of the Borrower, by way of General Security Agreement, dated October 20, 2006 (the "**GSA**");
  - (b) a Deposit Pledge Agreement and a Pledge of Instrument and Assignment of Proceeds Agreement in respect of a \$1,000,000 cash deposit retained by BMO as security for the present and future obligations of the Borrower to BMO (collectively, the "**Cash Collateral Security Agreements**");
  - (c) an Assignment of Material Contracts and Other Rights dated January 29, 2016; and
  - (d) security under Section 427 of the *Bank Act*, SC 1991 c 46 (the "**Bank Act**") to secure the present and future obligations of Graf Canada to BMO by way of (i) the Application for Credit and Promise to give Bills of Lading, Warehouse Receipts or Security under Section 427 of the Bank Act dated October 21, 2015, (ii) Agreement as to Loans and Advances and Security dated October 21, 2015 and (iii) Security under Section 427(1) of the Bank Act dated October 12, 2015.

7. The GSA was duly registered in the Alberta Personal Property Registry on October 23, 2006.
8. The Cash Collateral Security Agreements were duly registered in the Alberta and Ontario Personal Property Registries on December 24, 2015.
9. The Notice of Intention to give Bank Act Security was registered with the Bank of Canada Agency for the Province of Alberta on October 13, 2015.

**Default and Demand**

10. The Borrower has committed defaults under the Credit Agreement and BMO had agreed to forbear on such Credit Agreement defaults pursuant to a Forbearance Agreement dated December 28, 2015, as amended by a First Amending Agreement dated February 24, 2016 (collectively, the "**Forbearance Agreement**"), as more particularly described in the Devlin Affidavit.
11. The Borrower has committed further defaults under the terms of the Forbearance Agreement as more particularly described in the Devlin Affidavit, which terminated the Forbearance Agreement.
12. Upon the termination of the Forbearance Agreement all Indebtedness is due on demand in accordance with the terms of the Credit Agreement.
13. On or about April 15, 2016, BMO demanded repayment of the Indebtedness from the Borrower. The Borrower has failed, refused, or neglected to repay the Indebtedness.
14. On or about April 15, 2016, BMO delivered to the Borrower a notice of intention to enforce security pursuant to section 244(1) of the BIA (the "**NOI**"). The 10 day period contemplated in the NOI has expired. On or about April 18, 2016, the Borrower delivered

a Consent to Earlier Enforcement pursuant to section 244(2) of the BIA such that the 10 day notice period contemplated in the NOI has been satisfied.

**Appointment of Receiver**

15. The immediate appointment of a receiver is necessary to protect and preserve BMO's interests at this time and to realize upon the assets of the Borrower in order to recover the Indebtedness.
16. It is just and convenient to appoint a receiver of the Borrower without delay.
17. Richter Advisory Group Inc. has consented to act as Receiver of the Borrowers.
18. Such further and other grounds as counsel may advise and this Honourable Court may permit.

**Material or Evidence to be Relied on:**

19. The Affidavit of Hugh Devlin, dated April 20, 2016.
20. The pleadings and proceedings herein.

**Applicable Rules:**

21. The Alberta Rules of Court.

**Applicable Acts and Regulations:**

22. *Bankruptcy and Insolvency Act* (Canada).
23. *Judicature Act* (Alberta).

**How the Application is Proposed to be Heard or Considered:**

Before the Honourable Mr. Justice Jeffrey in Chambers.

<b>WARNING</b>
----------------

If you do not come to Court either in person or by your lawyer, the Court may give the applicant what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

**SCHEDULE "A"**

Clerk's stamp:

COURT FILE NUMBER:

COURT OF QUEEN'S BENCH OF  
ALBERTA

JUDICIAL CENTRE OF

CALGARY

IN THE MATTER OF THE BANKRUPTCY AND  
INSOLVENCY OF GRAF CANADA LTD.

APPLICANT:

**BANK OF MONTREAL**

RESPONDENT(S):

**GRAF CANADA LTD.**

DOCUMENT:

**RECEIVERSHIP ORDER**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS DOCUMENT:

**Cassels Brock and Blackwell**  
40 King Street West  
Suite 2100, Scotia Plaza  
Toronto, Ontario  
M5H 3C2

Solicitor: Larry Ellis  
Telephone: 416-869-5406  
Facsimile: 416-640-3004  
Email: [lellis@casselsbrock.com](mailto:lellis@casselsbrock.com)  
File Number: 33336-356

**DATE ON WHICH ORDER WAS PRONOUNCED:** April 27, 2016

**NAME OF JUDGE WHO MADE THIS ORDER:** The Honourable Mr. Justice Jeffrey

**LOCATION OF HEARING:** Calgary, Alberta

**UPON** the application of Bank of Montreal (the "**Bank**") in respect of Graf Canada Ltd. (the "**Borrower**") for an order appointing Richter Advisory Group Inc. as receiver and manager over the assets, undertakings and properties of the Borrower; **AND UPON** having read the Application, the Affidavit of Hugh Devlin sworn April 20, 2016 (the "**Devlin Affidavit**"), filed; **AND UPON** reading the consent of Richter Advisory Group Inc. to act as interim receiver and receiver and manager ("**Receiver**") of the Debtor, filed; **AND UPON** review of the Devlin

Affidavit with Exhibits; AND UPON hearing counsel for the Bank; IT IS HEREBY ORDERED AND DECLARED THAT:

### SERVICE

1. The time for service of the notice of application for this order is hereby abridged and service thereof is deemed good and sufficient.

### APPOINTMENT

2. Pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 ("BIA"), and sections 13(2) of the *Judicature Act*, R.S.A. 2000, c.J-2 Richter Advisory Group Inc. is hereby appointed Receiver, without security, of all of the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the "Property").

### RECEIVER'S POWERS

3. The Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
  - (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
  - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
  - (c) to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part other business, or cease to perform any contracts of the Debtor;



- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to or by the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding, and provided further that nothing in this Order shall authorize the Receiver to defend or settle the action in which this Order is made unless otherwise directed by this Court;
- (k) to market any or all the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business;

- (i) without the approval of this Court in respect of any transaction not exceeding \$2,000,000.00, provided that the aggregate consideration for all such transactions does not exceed \$2,000,000.00; and
- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,

and in each such case notice under subsection 60(8) of the *Personal Property Security Act*, R.S.A. 2000, c. P-7 shall not be required.

- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. (i) The Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependant on maintaining possession) to the Receiver upon the Receiver's request.
5. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.
6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons

in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

7. No proceeding or enforcement process in any court or tribunal (each, a **"Proceeding"**), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

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

8. No Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court, provided, however, that nothing in this Order shall: (i) prevent any Person from commencing a proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such proceeding is not commenced before the expiration of the stay provided by this paragraph 8; and (ii) affect a Regulatory Body's investigation in respect of the debtor or an action, suit or proceeding that is taken in respect of the debtor by or before the Regulatory Body, other than the enforcement of a payment order by the Regulatory Body or the Court. "Regulatory Body" means a person or body that has

powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a province.

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

9. All rights and remedies (including, without limitation, set-off rights) against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" (as defined in the BIA), and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH THE RECEIVER**

10. No 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 the Debtor, without written consent of the Receiver or leave of this Court. Nothing in this Order shall prohibit any party to an eligible financial contract from closing out and terminating such contract in accordance with its terms.

#### **CONTINUATION OF SERVICES**

11. All Persons having oral or written agreements with the Debtor 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 Debtor 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 Receiver, and this Court directs that the Receiver shall be entitled to the continued use of the Debtor's current 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 Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

### RECEIVER TO HOLD FUNDS

12. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

### EMPLOYEES

13. All employees of the Debtor are hereby terminated. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the Wage Earner Protection Program Act, S.C. 2005, c.47 ("**WEPPA**").
14. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of

such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

15. (a) Notwithstanding anything in any federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:
- (i) before the Receiver's appointment; or
  - (ii) after the Receiver's appointment unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.
- (b) Nothing in sub-paragraph (a) exempts a Receiver from any duty to report or make disclosure imposed by a law referred to in that sub-paragraph.
- (c) Notwithstanding anything in any federal or provincial law, but subject to sub-paragraph (a) hereof, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, the Receiver is not personally liable for failure to comply with the order, and is not personally liable for any costs that are or would be incurred by any person in carrying out the terms of the order,
- (i) if, within such time as is specified in the order, within 10 days after the order is made if no time is so specified, within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, or during the period of the stay referred to in clause (ii) below, the Receiver:

- 10 -

- A. complies with the order, or
  - B. on notice to the person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;
- (ii) during the period of a stay of the order granted, on application made within the time specified in the order referred to in clause (i) above, within 10 days after the order is made or within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, by,
- A. the court or body having jurisdiction under the law pursuant to which the order was made to enable the Receiver to contest the order; or
  - B. the court having jurisdiction in bankruptcy for the purposes of assessing the economic viability of complying with the order; or
- (iii) if the Receiver had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

16. Except for gross negligence or wilful misconduct, as a result of its appointment or carrying out the provisions of this Order the Receiver shall incur no liability or obligation that exceeds an amount for which it may obtain full indemnity from the Property. Nothing in this Order shall derogate from any limitation on liability or other protection afforded to the Receiver under any applicable law, including, without limitation, Section 14.06, 81.4(5) or 81.6(3) of the BIA.

#### **RECEIVER'S ACCOUNTS**

17. The Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case, incurred at their standard rates and charges. The Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the



**"Receiver's Charge"**) on the Property, as security for such fees and disbursements, incurred both before and after the making of this Order in respect of these proceedings, and the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person but subject to section 14.06(7), 81.4(4) and 81.6(2) of the BIA.

18. The Receiver and its legal counsel shall pass their accounts from time to time.
19. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including the legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

20. The Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges set out in sections 14.06(7), 81.4(4) and 81.6(2) of the BIA.
21. Neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

22. The Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.
23. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

#### **ALLOCATION**

24. Any interested party may apply to this Court on notice to any other party likely to be affected, for an order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the various assets comprising the Property.

#### **GENERAL**

25. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
26. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Receiver will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence.
27. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.
28. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

29. The Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
30. The Plaintiff shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.
31. Any interested party may apply to this Court to vary or amend this Order on not less than 7 days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

#### **FILING**

32. This Order is issued and shall be filed in Court of Queen's Bench Action No. ●, and Court of Queen's Bench in Bankruptcy Action No. ●, which actions are not consolidated. All further proceedings shall be taken in both actions unless otherwise ordered.
  33. The Receiver shall establish and maintain a website in respect of these proceedings at <http://www.richter.ca/en/folder/insolvency-cases/g/graf-canada-ltd> and shall post there as soon as practicable:
    - (a) all materials prescribed by statute or regulation to be made publically available; and
    - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, or served upon it, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.
-

- 14 -

Justice of the Court of Queen's Bench of Alberta

**SCHEDULE "A"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that [RECEIVER'S NAME], the interim receiver and receiver and manager (the "Receiver") of all of the assets, undertakings and properties of [DEBTOR'S NAME] appointed by Order of the Court of Queen's Bench of Alberta and Court of Queen's Bench of Alberta in Bankruptcy and Insolvency (collectively, the "Court") dated the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (the "Order") made in action numbers \_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily] [monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at ●.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property) as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[RECEIVER'S NAME], solely in its capacity  
as Receiver of the Property (as defined in the  
Order), and not in its personal capacity

Per: \_\_\_\_\_  
Name:  
Title:

# Tab 2

COURT FILE NUMBER  
COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE

PLAINTIFF

DEFENDANT

DOCUMENT  
ADDRESS FOR SERVICE AND CONTACT  
INFORMATION OF PARTY FILING THIS  
DOCUMENT

1601-05249  
CALGARY

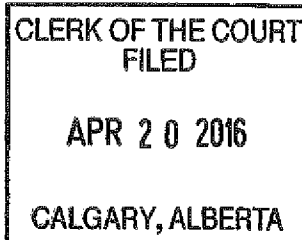
BANK OF MONTREAL

GRAF CANADA LTD.

**AFFIDAVIT**  
**Cassels Brock and Blackwell**  
40 King Street West  
Suite 2100, Scotia Plaza  
Toronto, Ontario  
M5H 3C2

Solicitor: Larry Ellis  
Telephone: 416-869-5406  
Facsimile: 416-640-3004  
Email: lellis@casselsbrock.com  
File Number: 33336-356

Clerk's stamp:



### AFFIDAVIT OF HUGH DEVLIN

Sworn on April 20, 2016,

I, Hugh Devlin, of the City of Toronto, in the Province of Ontario, MAKE OATH AND  
SAY:

1. I am a Senior Manager with the Bank of Montreal ("**BMO**") and, as such, have knowledge of the matters contained in this affidavit. Where the information set out in this affidavit is based upon information which I have received from others, I have stated the source of that information and believe it to be true.

2. I swear this affidavit in support of an application by BMO for the appointment of Richter Advisory Group Inc. ("**Richter**") over the assets, property and undertaking of Graf Canada Ltd. ("**Graf Canada**").



3. As of April 15, 2016, Graf Canada is indebted to BMO in the amount of CDN\$1,696,792.16 and USD\$1,530,485.65 as borrower under certain credit facilities extended by BMO to Graf Canada, which amount remains unpaid despite demand.

4. For the reasons detailed below, it is just and equitable that a receiver be appointed over the property, assets and undertaking of Graf Canada. A receiver is necessary for the protection of BMO's interest and those of Graf Canada's other creditors. The appointment of a receiver, in order to seek a sale of the business and/or assets of Graf Canada, will enhance the prospect of recovery by Graf Canada's creditors, including BMO.

#### **GRAF CANADA AND GRAF SKATES AG**

5. Graf Canada is a corporation existing under the laws of the province of Alberta. Its head office is located in Calgary, Alberta. Graf Canada is owned by Gayle Estabrooks, an individual resident in the Province of Ontario and the President, Chief Executive Officer and a Director of Graf Canada.

6. Graf Canada is the designer, marketer, manufacturer and distributor of licensed 'GRAF' hockey and certain figure-skate products in North America.

7. The 'GRAF' brand was established in Switzerland with the creation of Graf Skates AG ("**Graf Switzerland**"). Graf Switzerland produced a variety of sport shoes, ultimately becoming specialists in hockey and figure skating boots under the 'GRAF' brand. Graf Switzerland owns the registered intellectual property in Canada associated with the 'GRAF' brand, including the G-Mark trademark and the 'GRAF' logo known as the Graf-Mark (collectively, the "**Graf Canada Intellectual Property**").

8. The 'GRAF' brand entered the North American market through the establishment of Graf Canada. The relationship between Graf Canada and Graf Switzerland is a contractual relationship governed through licensing arrangements, being namely the (i) License Agreement Re: Figure Skates between Graf Canada and Graf Switzerland made as of January 1, 2016, as amended by the License Agreement Amendment made as of January 29, 2016 (collectively, the "**Figure Skate License Agreement**") and (ii) License Agreement Re: Hockey Skates between Graf Canada and Graf Switzerland made as of January 1, 2016, as amended by the License Agreement Amendment made as of January 29, 2016 (collectively, the "**Hockey Skate License Agreement**" and together with the Figure Skate License Agreement, the "**License Agreements**").

9. Under the terms of the License Agreements, Graf Switzerland has granted to Graf Canada (subject to the terms of the License Agreements) the (i) exclusive right and license to manufacture and sell figure skates in North America, (ii) the exclusive right and license to manufacture hockey skates and hockey-related products including clothing, protective equipment, equipment bags, hockey sticks and accessories (collectively, "**Hockey Products**"), (iii) the exclusive right and license to distribute the Hockey Products whether under the Graf Canada Intellectual Property or not, in North America until January 1, 2016 and thereafter the world (subject to enumerated exceptions) and (iv) right to use the 'Graf' name, including in its corporate name.

10. Graf Canada manufactures and distributes its products in Canada through a leased premises in Calgary, Alberta.

11. Graf Canada employs 16 people, all of which are non-unionized. Graf Canada has no pension plans or other employee plans for its employees.

### **BMO CREDIT FACILITIES**

12. Graf Canada and BMO entered into an Operating Loan Agreement made as of October 20, 2006 and January 8, 2006 (the “**Initial Credit Agreements**”). Pursuant to the Initial Credit Agreements, BMO agreed to make available a demand revolving loan in the amount of up to CDN\$5,000,000 available to the Borrower subject to margining calculations as set out in the Initial Credit Agreements. Attached hereto as Exhibit “A” are copies of the Initial Credit Agreements.

13. Graf Canada and BMO also entered into a general security agreement dated October 20, 2006 (the “**General Security Agreement**”) whereby Graf Canada agreed to provide as security for the repayment of all present and future indebtedness of Graf Canada to BMO, security over all of Graf Canada’s present and after-acquired property. Attached hereto as Exhibit “B” as a copy of the General Security Agreement.

14. The General Security Agreement was registered in the *Personal Property Security Act* (Alberta) (the “**Alberta PPSA**”) registration system against Graf Canada by BMO on October 23, 2006 both as a security agreement and as a land charge. Attached hereto as marked as Exhibit “C” is a copy of the Alberta PPSA registration results against Graf Canada showing such registrations with a file currency as of April 19, 2016.

15. On March 25, 2014, Graf Canada, Perseis Private Equity Limited Partnership, by its general partner Perseis Private Equity General Partner Inc. (“**Perseis Equity**”) and

Perseis (QLP) Private Equity Limited Partnership, by its general partner Perseis Private Equity General Partner Inc. ("**Perseis LP**" and collectively with Perseis Equity, the "**Guarantors**") and BMO entered into a Term Sheet dated March 25, 2014 (the "**Term Sheet**") whereby the parties to the Term Sheet agreed that they would continue to maintain or establish (i) a revolving demand credit facility in the amount of up to CDN\$5,000,000, as was previously established under the Initial Credit Agreements, with availability subject to a margining formula to finance the operations of Graf Canada, (the "**Revolving Credit Facility**") and (ii) a corporate Mastercard facility, due on demand, in an amount not to exceed CDN\$100,000 (the "**Mastercard Facility**", and together with the Revolving Credit Facility, the "**Credit Facilities**"). Attached hereto as Exhibit "D" is a copy of the Term Sheet.

16. In addition to the General Security Agreement which continued to secure all present and future amounts owed by Graf Canada to BMO, including (but not limited to) indebtedness under the Term Sheet, the obligations of Graf Canada to BMO under the Term Sheet were secured by limited recourse guarantees dated March 24, 2014 (the "**Limited Recourse Guarantees**") limited to a \$1,000,000 GIC (the "**Cash Collateral**") held by BMO pursuant to a Deposit Pledge Agreement dated March 25, 2014.

17. On or about December 28, 2015, the Guarantors sold 100% of the issued and outstanding shares of the Company to Gayle Estabrooks, the sole current shareholder of Graf Canada (the "**Sale Transaction**"). In connection with the Sale Transaction, Graf Canada purchased the Cash Collateral and entered into (i) a Deposit Pledge Agreement made as of December 27, 2015 in favour of BMO and (ii) a Pledge of Instrument and Assignment of Proceeds Agreement Dated December 17, 2015 in favour of BMO

(collectively, the “**Cash Collateral Security Agreements**”) through which the Company pledged the Cash Collateral as security for the obligations of the Company to BMO. BMO consented to the Sale Transaction, as hereinafter discussed, and released the Guarantors and the Limited Recourse Guarantees on receipt of the Cash Collateral Security Agreements. A copy of the Cash Collateral Security Agreements are attached as Exhibit “E” hereto.

18. Registrations were made under the Alberta PPSA registration system and under the *Personal Property Security Act* (Ontario) (the “**Ontario PPSA**”) registration system against Graf Canada with respect to the Cash Collateral Security Agreements on December 24, 2015. Attached hereto as Exhibit “F” is a copy of the Alberta PPSA and Ontario PPSA registration results against Graf Canada reflecting such registrations with a file currency as of April 19, 2016 and April 18, 2016 respectively.

19. Graf Canada also provided BMO with security under Section 427 of the *Bank Act*, SC 1991 c 46 (the “**Bank Act**”) to secure the present and future obligations of Graf Canada to BMO by way of (i) the Application for Credit and Promise to give Bills of Lading, Warehouse Receipts or Security under Section 427 of the Bank Act dated October 21, 2015, (ii) Agreement as to Loans and Advances and Security dated October 21, 2015 and (iii) Security under Section 427(1) of the Bank Act dated October 12, 2015. A copy of these documents are attached as Exhibit “G” hereto.

20. A Notice of Intention to Give Security under Section 427 of the Bank Act was registered with the Bank of Canada Agency for the Province of Alberta on October 13, 2015. Attached hereto as Exhibit “H” is a copy of the search of the notices of intention to

give security under the Bank Act registered in the province of Alberta revealing this registration.

## FINANCIAL DIFFICULTIES

21. Through the reporting required under the Term Sheet delivered by the Company to the BMO between the date of the Term Sheet and the winter of 2015, it was revealed on several occasions to BMO that the Company was offside on the financial covenants required by the Term Sheet (the “**Existing Defaults**”). BMO worked closely with the Company during this period to obtain accurate financial information and to ascertain the underlying reasons for the Existing Defaults.

22. In the winter of 2015, Graf Canada and BMO met to discuss the Sale Transaction and specifically the conditions under which BMO would consent to the Sale Transaction and how BMO would continue to support Graf Canada on an ongoing basis given BMO’s concerns regarding the Existing Defaults. These conditions included Graf Canada working with Richter Advisory Group Inc. (the “**Financial Advisor**”) to complete a thirteen week cash flow projection (the “**Initial Cash Flow**”).

23. The Initial Cash Flow prepared by Graf Canada with the Financial Advisor caused further concern to BMO with revenues on an ongoing basis being projected at a lower level than previously anticipated by Graf Canada, which was a particular concern as historically Graf Canada did not meet their revenues as forecasted. Furthermore, the Initial Cash Flow showed that there would be a shortfall in availability under the Revolving Credit Facility as to what was required to operate Graf Canada’s business and confirmed

that cash injections would be required from Graf Switzerland for Graf Canada to be able to continue to operate.

24. BMO consented to the Sale Transaction by way of a Consent Agreement dated December 28, 2015 between the Guarantors, Graf Canada and BMO, on the condition (among others) that (i) the Corporation pledge the Cash Collateral to BMO and (ii) that BMO and Graf Canada enter into a forbearance agreement in the form satisfactory to the BMO no later than January 8, 2016.

#### **BMO ACCOMMODATIONS AND FORBEARANCES**

25. BMO continued to support Graf Canada on the terms of a forbearance agreement dated January 8, 2016 (the “**Initial Forbearance Agreement**”), which provided that BMO would forbear from enforcing its rights until February 29, 2016 (the “**Initial Forbearance Deadline**”), so long as Graf Canada continued to operate its business in accordance with the Initial Cash Flow, including as it related to the Graf Switzerland providing cash injections. Under the Initial Forbearance Agreement the Mastercard Facility was reduced to a maximum availability of CDN\$5,000.00. Attached hereto and marked as Exhibit “I” is a copy of the Initial Forbearance Agreement which includes the Initial Cash Flow.

26. In addition, the Initial Forbearance Agreement required, among other things, that (i) Graf Canada enter into licensing arrangements with Graf Switzerland satisfactory to BMO by January 31, 2016, (ii) the Company provide BMO with evidence of completed sales booking orders for 2016 and a revised cash flow forecast for the 2016 calendar year by February 15, 2016 and (iii) Graf Canada would provide enhanced reporting to BMO

including variance reports based on the Initial Cash Flow and narratives from management regarding such variances.

27. Graf Canada in accordance with the Initial Forbearance Agreement entered into licensing arrangements with Graf Switzerland pursuant to the License Agreements. BMO worked closely with Graf Canada and supported Graf Canada during the negotiation of the License Agreements to ensure that Graf Canada's interests were adequately protected. As part of the security package under the Term Sheet, the License Agreements were assigned to BMO by way of an Assignment of Material Contracts and Other Rights dated January 29, 2016 (the "**Assignment of Material Contracts**"). Attached hereto and marked as Exhibit "J" is a copy of the Assignment of Material Contracts.

28. Graf Switzerland, Graf Canada and BMO entered into a Consent and Non-Disturbance Agreement dated January 29, 2016 (the "**Consent and Non-Disturbance Agreement**") in respect of the License Agreements, through which Graf Switzerland consented to the granting of security by way of the Assignment of Material Contracts and the rights of the parties to deal with the License Agreements, including under an enforcement scenario were enumerated. Attached hereto and marked as Exhibit "K" is a copy of the Consent and Non-Disturbance Agreement.

29. In February of 2016, BMO was advised that the booking orders could not be delivered to BMO by February 15, 2016 as required by the Initial Forbearance Agreement and therefore Graf Canada had breached the Initial Forbearance Agreement. Graf Canada furthermore advised, and reporting of Graf Canada to BMO confirmed, that



without additional booking orders Graf Canada would not be able to meet the projections contained in the Initial Cash Flow statement. Graf Canada requested accommodation from BMO to extend the Initial Forbearance Period to allow Graf Canada to firm up their booking orders and to revise and update the Initial Cash Flow that Graf Canada had to operate its business in accordance with for another thirteen weeks.

30. BMO agreed to continue to support Graf Canada and through a First Amendment to Forbearance Agreement dated February 24, 2016 (the "**Amending Agreement**") and with the Initial Forbearance Agreement, the "**Forbearance Agreement**") agreed to extend the Initial Forbearance Period to April 29, 2016 and to replace the Initial Cash Flow with a revised cash flow (the "**Revised Cash Flow**"). Attached hereto and marked as Exhibit "L" is a copy of the Amending Agreement which includes the Revised Cash Flow.

31. On April 14, 2016 Graf Canada met with BMO to discuss a significant downturn in the financial viability of Graf Canada. Graf Canada advised BMO that they did not secure a material amount of booking orders, totalling over \$900,000 in anticipated revenue, which constituted a material adverse change to Graf Canada's business. Furthermore, Graf Canada advised BMO that it would no longer be able to pay its amounts to BMO as they became due.

32. On April 15, 2016, BMO advised Graf Canada that they were in breach of the Forbearance Agreement based on the material adverse change in circumstances of Graf Canada and demanded repayment from Graf Canada of all amounts outstanding to BMO (the "**Demand**") and provided notice of intention to enforce security pursuant to section 244 of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, as amended (the "**BIA**").

Attached hereto and marked as Exhibit "M" is a copy of the Demand and the notice of intention to enforce security.

33. On April 18, 2016 Graf Canada executed a Consent to Earlier Enforcement pursuant to Section 244(2) of the *Bankruptcy and Insolvency Act* (Canada) in favour of BMO (the "**Consent to Earlier Enforcement**"). Graf Canada has effectively acknowledged that they cannot continue to operate and are working with Richter prior to the receiver being appointed to ensure an orderly wind-down. A copy of the Consent to Earlier Enforcement is attached hereto and marked as Exhibit "N".

34. As of April 15, 2016, Graf Canada is indebted to BMO in the amount of CDN\$1,696,792.16 and USD\$1,530,485.65 (the "**BMO Indebtedness**").

35. On April 20, 2016 in light of receipt of the Consent to Earlier Enforcement, BMO enforced on the Cash Collateral in accordance with the terms of the Cash Collateral Security Agreements.

#### **OTHER OBLIGATIONS OF GRAF CANADA**

36. I have reviewed the Alberta PPSA and Ontario PPSA registration search results for Graf Canada. There are no entities other than BMO that have registered under the Ontario PPSA. There is one other entity with two Alberta PPSA registrations entered against Graf Canada, being National Leasing Group Inc ("**National**"). National's Alberta PPSA registrations are in respect of (i) Graf Canada's telephone systems and VOIP described in lease number 2583305 between National and Graf Canada and (ii) certain of Graf Canada's industrial and manufacturing equipment described in lease number

2673937 between 7964927 Canada Inc. and Graf Canada, as assigned to National. A copy of the Alberta PPSA and the Ontario PPSA registration search results is attached hereto and marked as Exhibit "O".

37. I understand that Graf Switzerland has an unsecured claim in the amount of approximately CDN\$2,000,000.00 against Graf Canada for amounts advanced pursuant to a grid promissory note dated May 21, 2015 for the cash injections provided by Graf Switzerland to Graf Canada.

38. I also understand from information provided by Graf Canada that Graf Canada has unsecured trade debt of approximately CDN\$1,400,000.00 and is generally current in respect of its obligations to its employees and governmental agencies.

#### **THE NEED FOR THE APPOINTMENT OF A RECEIVER**

39. BMO has provided numerous accommodations to Graf Canada over the course their relationship, including consenting to the Sale Transaction to allow Graf Canada the opportunity to effect change under new ownership and time to work to increase booking orders and revenue by way of the Amending Agreement. Despite these accommodations, and significant liquidity injections from Graf Switzerland, Graf Canada has not secured material booking orders resulting in a material reduction of forecasted revenue and has advised BMO that it is unable to pay its debts to BMO as they become due. As a result, Graf Canada is in breach of the terms of the Forbearance Agreement.

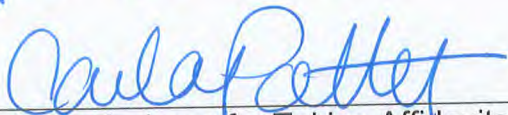
40. Based on the information provided to BMO by Graf Canada, Graf Canada is insolvent and cannot sustain ordinary course operations in the absence of funding from a third party, whether it be Graf Switzerland or otherwise.


41. Graf Canada consented to this receivership application in the Forbearance Agreement and has provided to BMO the Consent to Earlier Enforcement.

42. Richter is prepared to act as receiver for the Borrower. Attached hereto and marked as Exhibit "P" is a true copy of a signed Consent to Act of Richter.

43. In the circumstances above, it is just and equitable that a receiver be appointed over the property, assets and undertaking of Graf Canada. A receiver is necessary for the protection of BMO's interest and those of Graf Canada's other creditors, and I believe that the appointment of a receiver will enhance the prospect of recovery by Graf Canada's creditors.

SWORN BEFORE ME at the City of  
Toronto, in the Province of Ontario on  
April 20 ..... 2016

  
\_\_\_\_\_  
Commissioner for Taking Affidavits  
(or as may be)


}   
\_\_\_\_\_  
(Signature of deponent)

Tab A

- 1 -

Exhibit "A" to the Affidavit of Hugh Devlin, sworn  
before me this 20<sup>th</sup> day of April, 2016.

  
\_\_\_\_\_  
Commission for Taking Affidavits, etc.

BMO  Bank of MontrealBranch of Account: 10199 - 101 Street NW, CSC, Edmonton,  
Alberta T5J 3Y4

Transit No. 0014

**Operating Loan Agreement**  
**with Availment in Cdn. Or U.S. Dollars**  
(for use in all Provinces except Quebec)

To: Bank of Montreal

Date: October 10, 2006

The undersigned hereby requests the Bank of Montreal (the "Bank") to provide a credit facility to the undersigned, subject to the following terms and conditions:

**1. DEFINED TERMS**

In this Agreement, unless the subject matter or context otherwise require:

Click on  
text box to  
choose  
Canadian  
Dollar or  
U.S. Dollar

1.01 "Account" shall mean the Canadian Dollar Account or the U.S. Dollar Account, whichever is applicable.

1.02 "Canadian Dollar Account" shall mean Account No. 1181-482 at the branch designated above.

1.03 "Facility Fee" shall mean a fixed monthly fee of \$ 0.00.

1.04 "Loan" shall mean at any time the aggregate of all amounts debited to the Account (including without limitation cheques, transfers, withdrawals, interest, costs, charges and fees) in excess of the aggregate of all amounts credited to the Account for which the Bank has given value. Amounts debited or credited to the Canadian Dollar Account shall be denominated in Canadian dollars while amounts debited or credited to the U.S. Dollar Account shall be denominated in U.S. dollars.

Click on  
textbox to  
choose  
currency  
Canadian or  
U.S. Dollar

1.05 "Loan Limit" shall mean Five Million Canadian Dollars (\$ 5,000,000 ) or such lesser amount as may be calculated by the Bank from time to time under the Lending Margin Calculation, if any, set out in the Addendum hereto.

1.06 "Loan Rate" shall mean:

Fill in  
applicable  
rate -  
either  
1.05(a) or  
1.05(b),  
but not both

☒ (a) in respect of a Canadian Dollar Loan, a rate equal to the Bank's Prime Rate plus point five per cent ( 0.5%) per annum; or

☒ (b) in respect of a U.S. Dollar Loan, a rate equal to the Bank's U.S. Base Rate plus \_\_\_\_\_ per cent ( \_\_\_\_\_ %) per annum.

Fill in  
applicable  
rate -  
either 1.07  
or 1.08,  
but not both

☐ 1.07 "Prime Rate" shall mean the floating annual rate of interest established from time to time by the Bank as the reference rate it will use to determine the rate of interest payable to the Bank by borrowers from the Bank in Canadian dollars in Canada and designated by the Bank as its Prime Rate. The Prime Rate on the date hereof is \_\_\_\_\_ per cent ( \_\_\_\_\_ %) per annum.

☐ 1.08 "U.S. Base Rate" shall mean the floating annual rate of interest established from time to time by the Bank as the reference rate it will use to determine the rate of interest payable to the Bank by borrowers from the Bank in U.S. dollars in Canada and designated by the Bank as its U.S. Base Rate. The U.S. Base Rate on the date hereof is \_\_\_\_\_ per cent ( \_\_\_\_\_ %) per annum.

Fill in  
overdraft  
rate

1.09 "Overdraft Rate" shall mean the annual rate of interest established from time to time by the Bank as the interest rate it will use to calculate the interest payable on overdrawn accounts and designated by the Bank as the "Overdraft Rate". The Overdraft Rate on the date hereof is twenty-one per cent (21%) per annum.

## 2. ACCOUNT

- 2.01 The undersigned may from time to time draw cheques on the Account, subject to the terms hereof. Cheques drawn on the Canadian Dollar Account shall be drawn in Canadian dollars; cheques drawn on the U.S. Dollar Account shall be drawn in U.S. dollars.
- 2.02 The undersigned shall not at any time permit the Loan to exceed the Loan Limit and shall use the Account for business purposes only.
- 2.03 The Bank is authorized to debit the Canadian Dollar Account and the U.S. Dollar Account for all fees and interest required hereunder and for all costs, charges and expenses referred to in paragraph 8.01 and in any other agreement(s) the undersigned has entered into with the Bank.

## 3. FACILITY FEE

- 3.01 The undersigned shall pay the Facility Fee to the Bank, in the currency of the applicable Account, on the last day of each month in addition to all other fees applicable to the Account. Notwithstanding paragraph 1.03, the amount of the Facility Fee shall be determined by the Bank from time to time. The Facility Fee shall be payable for the credit facility provided hereunder and for other standard reporting services provided by the Bank in connection with the Account.

## 4. INTEREST

- 4.01 The undersigned shall, both before and after demand or judgment, pay interest at the Loan Rate on the daily closing balance of the Loan up to the Loan Limit, such interest to be calculated and payable monthly on the last day of each month.
- 4.02 The undersigned shall, both before and after demand or judgment, pay interest at the Overdraft Rate on the amount of any daily closing balance of the Loan in excess of the Loan Limit, such interest to be calculated and payable monthly on the last day of each month, but nothing herein shall oblige the Bank to permit the Loan to exceed the Loan Limit.

## 5. OTHER PAYMENTS

- 5.01 If any change occurring after the date of this Agreement in any law or in any interpretation or application thereof by any governmental authority charged with the administration thereof or compliance with any guideline, request or requirement from any fiscal, monetary or other authority (whether or not having the force of law) shall either (i) impose, modify, assess or deem applicable any reserve, special deposit, assessment or similar requirement on account of or with respect to the credit facility provided by the Bank under this Agreement or (ii) impose on the Bank any other condition, restriction, limitation or (iii) make the Bank liable for any payment or tax of any kind whatsoever or change the basis of taxation of payments to the Bank of principal, interest, fees or any other amount payable under this Agreement (except for changes in the rate of tax on the overall net income, profit or gains of the Bank) and the result of any of the foregoing is to increase the cost to the Bank of providing the credit facility under this Agreement or to reduce any amount otherwise receivable by the Bank under this Agreement on account of or with respect to the credit facility provided by the Bank hereunder, then the undersigned agrees, within ten days after any demand by the Bank, to commence paying to the Bank amounts sufficient to reimburse the Bank against such increased cost or such liability.

## 6. DEMAND AND TERMINATION

- 6.01 The undersigned shall pay the Loan to the Bank ON DEMAND. The Bank may at any time terminate the credit facility provided hereunder and demand payment of the Loan by notice as herein provided.



- 6.02 THE BANK MAY REFUSE TO HONOR ANY CHEQUE OR PERMIT ANY TRANSFER OR WITHDRAWAL FROM THE ACCOUNT UPON (A) ANY FAILURE OF THE UNDERSIGNED TO PERFORM OR SATISFY ANY TERM OR CONDITION HEREOF, (B) ANY DEFAULT BY THE UNDERSIGNED IN THE PERFORMANCE OF ANY OBLIGATION OF THE UNDERSIGNED TO THE BANK WHETHER CONTAINED HEREIN OR OTHERWISE, (C) THE DEATH OF ANY GUARANTOR OF ANY INDEBTEDNESS OF THE UNDERSIGNED OR RECEIPT BY THE BANK OF NOTICE OF TERMINATION OF ANY GUARANTEE OF ANY INDEBTEDNESS OF THE UNDERSIGNED OR (D) ANY DEMAND FOR PAYMENT OF THE LOAN, WHETHER OR NOT ANY TIME PERIOD HAS LAPSED AFTER THE TIME OF THE DEMAND.

## 7. DOCUMENTATION

- 7.01 The undersigned shall deliver to the Bank from time to time, promptly on request, in form and substance satisfactory to the Bank:
- (a) any security required by the Bank; and
  - (b) all other documents and information required by the Bank including, if applicable, all documentation and information listed in the Addendum.
- 7.02 Any security document delivered hereunder shall be held as additional security for the indebtedness of the undersigned for the Loan, and not in substitution or in satisfaction thereof.
- 7.03 The Bank's statements of the Account at any time shall constitute prima facie evidence of the Loan.
- 7.04 The undersigned will immediately notify the Bank if any guarantor of the indebtedness of the undersigned to the Bank dies.

## 8. COSTS

- 8.01 The undersigned shall pay all reasonable costs, charges and expenses incurred by the Bank in the preparation or enforcement of this Agreement or any security required hereunder.

## 9. NOTICES

- 9.01 The Bank shall not be required to notify the undersigned of changes to either the Prime Rate or the U.S. Base Rate, and shall not be required to notify the undersigned of changes to the Overdraft Rate or in the Bank's calculations of the Lending Margin Calculation, if any.
- 9.02 Any request for any document or information, notice of termination, demand for payment or other notice to be sent by the Bank to the undersigned in connection with this Agreement or the Account may be delivered to the undersigned (or any one of them, if more than one), or mailed by prepaid ordinary mail to the undersigned (or any one of them, if more than one) at the last known address for the undersigned (or any one of them, if more than one) in the Bank's records, and the undersigned shall be deemed to have received such request or notice on the date of delivery, if delivered, and four (4) days after mailing, if mailed.

Strike out  
entire section if  
inapplicable  
and initial

## ~~10~~ AMENDMENT, REPLACEMENT AND SUBSTITUTION

- ~~10.01~~ This Agreement hereby amends and replaces the \_\_\_\_\_  
(Insert name of agreement)  
\_\_\_\_\_, Agreement dated the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, as heretofore amended and supplemented from time to time (the "Existing Agreement"), between the undersigned and the Bank with effect as and from the date hereof (the "Effective Date") and is substituted therefor, the whole without any novation whatsoever.
- ~~10.02~~ The parties hereby expressly agree that as and from the Effective Date all of the undersigned's obligations, indebtedness and liabilities to the Bank under or pursuant to the Existing Agreement including, without limitation, the outstanding principal amount of the loan thereunder, all interest accrued thereon, all interest on overdue interest and all other amounts owing by the undersigned to the Bank under or pursuant to the Existing Agreement shall be governed by the terms hereof.
- ~~10.03~~ All covenants, representations and warranties under the Existing Agreement, any security documents thereunder or pursuant thereto, including without limitation any agreement or instrument creating or granting a hypothec, security under the *Bank Act* (Canada), mortgage, pledge, fixed or floating charge, assignment by way of security or any other security interest securing payment or performance of an obligation under or pursuant to the Existing Agreement (herein, collectively, the "Security Documents") and any certificate or other document delivered pursuant thereto (the Existing Agreement, the Security Documents and such certificates or other documents are herein, collectively, the "Loan Documents") are hereby confirmed by the undersigned and the Bank is relying expressly upon such covenants, representations and warranties in entering into this Agreement and providing accommodations hereunder, notwithstanding the amendment and replacement set forth herein.
- ~~10.04~~ As and from the Effective Date, all references to the Existing Agreement in any of the Loan Documents shall be construed as being a reference to the Existing Agreement as amended and replaced by this Agreement.
- ~~10.05~~ This Article 10 is made under express reserve of all the terms and conditions of this Agreement and the Loan Documents and all rights in favour of the Bank hereunder and thereunder and without novation of any kind or derogation from the rank and priority of the Security Documents. Without derogating from or restricting in any way the Security Documents, all obligations under or pursuant to the Existing Agreement and hereunder shall continue to be secured by the Security Documents. All of the provisions of this Article 10 are without novation.
- ## 11. GENERAL
- 11.01 The provisions of the Addendum, if any, shall be incorporated into this Agreement and form part hereof.
- 11.02 This Agreement shall be binding upon the undersigned and the respective executors, administrators, successors and assigns of the undersigned, but the undersigned shall not assign any of the rights or obligations of the undersigned hereunder without the prior written consent of the Bank.
- 11.03 The failure of either the undersigned or the Bank to require performance by the other of any provision hereof shall in no way affect the right thereafter to enforce such provision; nor shall the waiver by either party of any breach of any covenant, condition or proviso of this Agreement or any other agreement between the Bank and the undersigned be taken or held to be a waiver of any further breach of the same covenant, condition or proviso.
- 11.04 This Agreement shall be in addition to and not in substitution for any other agreement between the undersigned and the Bank.
- 11.05 The undersigned will execute, and agrees to be bound by the terms and conditions contained in, the Bank's standard form of Operation of Account Agreement or appropriate form of current account authority. Without limiting the generality of the foregoing, the undersigned agrees that any statement of the Account provided to the undersigned shall be deemed to be a correct and accurate statement of the Loan as at the date of the statement, unless the undersigned has notified the Bank of errors, irregularities or omissions within the thirty day period specified in the Operation of Account Agreement or current account authority.

- 11.06 All payments relating to the Loan made by the undersigned pursuant to this Agreement shall be paid in the currency in which the Loan is outstanding. All other amounts owing hereunder shall be paid in Canadian dollars except as otherwise herein agreed.

In the event the Bank is required to recover any amount owing hereunder by way of judicial proceeding, all amounts owing hereunder shall be payable in Canadian dollars. Notwithstanding the foregoing, the obligation of the undersigned under this Agreement to make payments in U.S. dollars shall not be discharged or satisfied by any tender or recovery pursuant to any judgment expressed in or converted into Canadian dollars except to the extent that such tender or recovery shall result in the effective receipt by the Bank of the full amount of U.S. dollars so payable hereunder. Accordingly, the obligation of the undersigned shall be enforceable as an alternative or additional cause of action for the purpose of recovery in Canadian dollars of the amount (if any) by which such effective receipt shall fall short of the full amount of U.S. dollars so payable hereunder and shall not be affected by any judgment being obtained for any other sums due hereunder.

For purposes of recovery by the Bank of amounts debited to the U.S. Dollar Account, the Canadian Dollar Equivalent Amount shall apply. "Canadian Dollar Equivalent Amount" shall mean, on any date, the amount of Canadian dollars into which U.S. dollars may be converted at the Bank's applicable noon spot buying rate on the date such conversion is made.

- 11.07 Time shall be of the essence of this Agreement.

- 11.08 If more than one person signs this Agreement, the obligations of the undersigned are joint and several and the Bank is authorized to honour any cheque drawn on the Account or pay any withdrawal from the Account to create or increase the Loan if any such cheque or withdrawal request is signed by one of the undersigned.

- 11.09 It is the express wish of the parties that this Agreement and any related documents be drawn up and executed in English. Les parties conviennent que la présente convention et tous les documents s'y rattachant soient rédigés et signés en anglais.

As at October , 2006.

Witnesses:

Customer: GRAF CANADA LTD.

By: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

(To be signed by Account Holder(s), or by authorized signing officer(s) in the case of corporations, societies, lodges, etc. In the case of corporations affix seal where applicable.)

**ADDENDUM TO  
OPERATING LOAN AGREEMENT**

**Lending Margin Calculation**

The following Lending Margin Calculation is applicable to the attached Operating Loan Agreement. The calculation and the amount of the Lending Margin Calculation is in the sole and complete discretion of the Bank, and in cases of dispute, the Lending Margin Calculation calculated by the Bank shall prevail.

The Lending Margin Calculation shall be an amount equal to:

- 75% of the Bank's estimated worth of assigned Canadian and US domiciled Accounts Receivable over which the Bank holds a valid first charge, less accounts past due 90 days or more, accounts in dispute and all amounts owing from non-arms length parties, plus 50% of finished goods inventory (capped at \$2,500,000).

If not  
applicable,  
insert N/A

**Documentation:**


See attached Schedule "A"

If not  
applicable,  
insert N/A

## SCHEDULE "A"

### Document

1. Financing commitment dated September 1, 2006 between Bank of Montreal (the "**Bank**") and Graf Canada Ltd. (the "**Borrower**") and acknowledged by Perseis Private Equity Limited Partnership (the "**Perseis**").
2. Notice of Intention to take security under Section 427 of the *Bank Act* executed by the Borrower in favour of the Bank.
3. General Security Agreement executed by the Borrower in favor of the Bank.
4. Application for credit and promise to give a security under Section 427 of the *Bank Act* executed by the Borrower in favour of the Bank.
5. Agreement as to loans and advances and security therefor executed by the Borrower in favor of the Bank.
6. Security under Section 427 of the *Bank Act* executed by the Borrower in favor of the Bank.
7. General assignment of book debts dated executed by the Borrower in favor of the Bank.
8. Assignment of insurance dated executed by the Borrower in favour of the Bank.
9. Assignment of material contracts and other rights dated executed by the Borrower in favor of the Bank.
10. Intercreditor Agreement between the Bank, Perseis and the Borrower.
11. Account Assignment Agreement executed by Perseis in favor of the Bank.
12. **[Account Acknowledgement Agreement executed by [BNY Trust Company of Canada] in favor of the Bank.]**
13. Landlord consent executed by Portland Street Depot Ltd. in favor of the Bank.
14. Environmental Indemnity executed by the Borrower in favor of the Bank.
15. BA power of attorney executed by the Borrower in favor of the Bank.
16. FirstBank Acceptance Agreement executed by the Borrower in favour of the Bank.
17. Financing statement registered under the Alberta *Personal Property Security Act* with the Borrower as the debtor and the Bank as secured party.
18. Certificate of an officer of the Borrower attaching its articles, by-laws and the resolution approving the financing and certifying other corporate matters.
19. Letter of opinion of Blake Cassels & Graydon LLP counsel to the Borrower and Perseis.
20. Release and Undertaking to Discharge executed by Royal Bank of Canada in favour of the Borrower and the Bank.

BMO  Bank of Montreal

Branch of Account: Main Office, Edmonton, Alberta

Transit No. 0014

**Operating Loan Agreement**  
**with Availment in Cdn. Or U.S. Dollars**  
 (for use in all Provinces except Quebec)

To: Bank of Montreal

Date: January 8, 2006

The undersigned hereby requests the Bank of Montreal (the "Bank") to provide a credit facility to the undersigned, subject to the following terms and conditions:

**1. DEFINED TERMS**

In this Agreement, unless the subject matter or context otherwise require:

Strike out  
inapplicable  
Account  
(Canadian  
Dollar or  
U.S. Dollar)  
and initial

- 1.01 "Account" shall mean the Canadian Dollar Account or the U.S. Dollar Account, whichever is applicable.
- 1.02 "Canadian Dollar Account" / "U.S. Dollar Account" shall mean Account No. 1181-482 and/or 4608-233 at the branch designated above.
- 1.03 "Facility Fee" shall mean a fixed monthly fee of \$ NIL.
- 1.04 "Loan" shall mean at any time the aggregate of all amounts debited to the Account (including without limitation cheques, transfers, withdrawals, interest, costs, charges and fees) in excess of the aggregate of all amounts credited to the Account for which the Bank has given value. Amounts debited or credited to the Canadian Dollar Account shall be denominated in Canadian dollars while amounts debited or credited to the U.S. Dollar Account shall be denominated in U.S. dollars.

Strike out  
inapplicable  
currency  
(Canadian or  
U.S.) and  
initial

- 1.05 "Loan Limit" shall mean Five Million Canadian/U.S. Dollars (\$ 5,000,000 Canadian ) or such lesser amount as may be calculated by the Bank from time to time under the Lending Margin Calculation, if any, set out in the Addendum hereto.

- 1.06 "Loan Rate" shall mean:

Fill in  
applicable  
rate -  
either  
..06(a) or  
..06(b),  
but not both

- ☒ (a) in respect of a Canadian Dollar Loan, a rate equal to the Bank's Prime Rate plus one half per cent ( 0.50%) per annum; or
- ☒ (b) in respect of a U.S. Dollar Loan, a rate equal to the Bank's U.S. Base Rate plus one half per cent ( 0.50%) per annum.

Fill in  
applicable  
rate -  
either 1.07  
or 1.08,  
but not both

- ☒ 1.07 "Prime Rate" shall mean the floating annual rate of interest established from time to time by the Bank as the reference rate it will use to determine the rate of interest payable to the Bank by borrowers from the Bank in Canadian dollars in Canada and designated by the Bank as its Prime Rate. The Prime Rate on the date hereof is six per cent ( 6.00%) per annum.

- ☒ 1.08 "U.S. Base Rate" shall mean the floating annual rate of interest established from time to time by the Bank as the reference rate it will use to determine the rate of interest payable to the Bank by borrowers from the Bank in U.S. dollars in Canada and designated by the Bank as its U.S. Base Rate. The U.S. Base Rate on the date hereof is eight and three quarters per cent ( 8.75%) per annum.

Fill in  
overdraft  
rate

- 1.09 "Overdraft Rate" shall mean the annual rate of interest established from time to time by the Bank as the interest rate it will use to calculate the interest payable on overdrawn accounts and designated by the Bank as the "Overdraft Rate". The Overdraft Rate on the date hereof is twenty one per cent ( 21.00%) per annum.

**2.****ACCOUNT**

(Overdraft applies only to amount  
over "Loan Limit" in Item 1.05)

*S.A.*

*S.A.*

*S.A.*

- 2.01 The undersigned may from time to time draw cheques on the Account, subject to the terms hereof. Cheques drawn on the Canadian Dollar Account shall be drawn in Canadian dollars; cheques drawn on the U.S. Dollar Account shall be drawn in U.S. dollars.
- 2.02 The undersigned shall not at any time permit the Loan to exceed the Loan Limit and shall use the Account for business purposes only.
- 2.03 The Bank is authorized to debit the Canadian Dollar Account and the U.S. Dollar Account for all fees and interest required hereunder and for all costs, charges and expenses referred to in paragraph 8.01 and in any other agreement(s) the undersigned has entered into with the Bank.

### 3. FACILITY FEE

- 3.01 The undersigned shall pay the Facility Fee to the Bank, in the currency of the applicable Account, on the last day of each month in addition to all other fees applicable to the Account. Notwithstanding paragraph 1.03, the amount of the Facility Fee shall be determined by the Bank from time to time. The Facility Fee shall be payable for the credit facility provided hereunder and for other standard reporting services provided by the Bank in connection with the Account.

### 4. INTEREST

- 4.01 The undersigned shall, both before and after demand or judgment, pay interest at the Loan Rate on the daily closing balance of the Loan up to the Loan Limit, such interest to be calculated and payable monthly on the last day of each month.
- 4.02 The undersigned shall, both before and after demand or judgment, pay interest at the Overdraft Rate on the amount of any daily closing balance of the Loan in excess of the Loan Limit, such interest to be calculated and payable monthly on the last day of each month, but nothing herein shall oblige the Bank to permit the Loan to exceed the Loan Limit.

### 5. OTHER PAYMENTS

- 5.01 If any change occurring after the date of this Agreement in any law or in any interpretation or application thereof by any governmental authority charged with the administration thereof or compliance with any guideline, request or requirement from any fiscal, monetary or other authority (whether or not having the force of law) shall either (i) impose, modify, assess or deem applicable any reserve, special deposit, assessment or similar requirement on account of or with respect to the credit facility provided by the Bank under this Agreement or (ii) impose on the Bank any other condition, restriction, limitation or (iii) make the Bank liable for any payment or tax of any kind whatsoever or change the basis of taxation of payments to the Bank of principal, interest, fees or any other amount payable under this Agreement (except for changes in the rate of tax on the overall net income, profit or gains of the Bank) and the result of any of the foregoing is to increase the cost to the Bank of providing the credit facility under this Agreement or to reduce any amount otherwise receivable by the Bank under this Agreement on account of or with respect to the credit facility provided by the Bank hereunder, then the undersigned agrees, within ten days after any demand by the Bank, to commence paying to the Bank amounts sufficient to reimburse the Bank against such increased cost or such liability.

### 6. DEMAND AND TERMINATION

- 6.01 The undersigned shall pay the Loan to the Bank ON DEMAND. The Bank may at any time terminate the credit facility provided hereunder and demand payment of the Loan by notice as herein provided.
- 6.02 THE BANK MAY REFUSE TO HONOR ANY CHEQUE OR PERMIT ANY TRANSFER OR WITHDRAWAL FROM THE ACCOUNT UPON (A) ANY FAILURE OF THE UNDERSIGNED TO PERFORM OR SATISFY ANY TERM OR CONDITION HEREOF, (B) ANY DEFAULT BY THE

*WJA*  
5.7

UNDERSIGNED IN THE PERFORMANCE OF ANY OBLIGATION OF THE UNDERSIGNED TO THE BANK WHETHER CONTAINED HEREIN OR OTHERWISE, (C) THE DEATH OF ANY GUARANTOR OF ANY INDEBTEDNESS OF THE UNDERSIGNED OR RECEIPT BY THE BANK OF NOTICE OF TERMINATION OF ANY GUARANTEE OF ANY INDEBTEDNESS OF THE UNDERSIGNED OR (D) ANY DEMAND FOR PAYMENT OF THE LOAN, WHETHER OR NOT ANY TIME PERIOD HAS LAPSED AFTER THE TIME OF THE DEMAND.

## 7. DOCUMENTATION

- 7.01 The undersigned shall deliver to the Bank from time to time, promptly on request, in form and substance satisfactory to the Bank:
- (a) any security required by the Bank; and
  - (b) all other documents and information required by the Bank including, if applicable, all documentation and information listed in the Addendum.
- 7.02 Any security document delivered hereunder shall be held as additional security for the indebtedness of the undersigned for the Loan, and not in substitution or in satisfaction thereof.
- 7.03 The Bank's statements of the Account at any time shall constitute prima facie evidence of the Loan.
- 7.04 The undersigned will immediately notify the Bank if any guarantor of the indebtedness of the undersigned to the Bank dies.

## 8. COSTS

- 8.01 The undersigned shall pay all reasonable costs, charges and expenses incurred by the Bank in the preparation or enforcement of this Agreement or any security required hereunder.

## 9. NOTICES

- 9.01 The Bank shall not be required to notify the undersigned of changes to either the Prime Rate or the U.S. Base Rate, and shall not be required to notify the undersigned of changes to the Overdraft Rate or in the Bank's calculations of the Lending Margin Calculation, if any.
- 9.02 Any request for any document or information, notice of termination, demand for payment or other notice to be sent by the Bank to the undersigned in connection with this Agreement or the Account may be delivered to the undersigned (or any one of them, if more than one), or mailed by prepaid ordinary mail to the undersigned (or any one of them, if more than one) at the last known address for the undersigned (or any one of them, if more than one) in the Bank's records, and the undersigned shall be deemed to have received such request or notice on the date of delivery, if delivered, and four (4) days after mailing, if mailed.

Strike out  
entire section if  
inapplicable  
and initial

## 10. AMENDMENT, REPLACEMENT AND SUBSTITUTION

- 10.01 This Agreement hereby amends and replaces the (Insert name of agreement)  
Agreement dated the \_\_\_\_\_ day of \_\_\_\_\_, as heretofore amended and supplemented from time to time (the "Existing Agreement"), between the undersigned and the Bank with effect as and from the date hereof (the "Effective Date") and is substituted therefor, the whole without any novation whatsoever.
- 10.02 The parties hereby expressly agree that as and from the Effective Date all of the undersigned's obligations, indebtedness and liabilities to the Bank under or pursuant to the Existing Agreement including, without limitation, the outstanding principal amount of the loan thereunder, all interest accrued thereon, all interest on overdue interest and all other amounts owing by the undersigned to the Bank under or pursuant to the Existing Agreement shall be governed by the terms hereof.

*MAH*  
*MAH*  
*ST.*  
*1 MAH*



- 10.03 All covenants, representations and warranties under the Existing Agreement, any security documents thereunder or pursuant thereto, including without limitation any agreement or instrument creating or granting a hypothec, security under the *Bank Act* (Canada), mortgage, pledge, fixed or floating charge, assignment by way of security or any other security interest securing payment or performance of an obligation under or pursuant to the Existing Agreement (herein, collectively, the "Security Documents") and any certificate or other document delivered pursuant thereto (the Existing Agreement, the Security Documents and such certificates or other documents are herein, collectively, the "Loan Documents") are hereby confirmed by the undersigned and the Bank is relying expressly upon such covenants, representations and warranties in entering into this Agreement and providing accommodations hereunder, notwithstanding the amendment and replacement set forth herein.
- 10.04 As and from the Effective Date, all references to the Existing Agreement in any of the Loan Documents shall be construed as being a reference to the Existing Agreement as amended and replaced by this Agreement.
- 10.05 This Article 10 is made under express reserve of all the terms and conditions of this Agreement and the Loan Documents and all rights in favour of the Bank hereunder and thereunder and without novation of any kind or derogation from the rank and priority of the Security Documents. Without derogating from or restricting in any way the Security Documents, all obligations under or pursuant to the Existing Agreement and hereunder shall continue to be secured by the Security Documents. All of the provisions of this Article 10 are without novation.

## 11. GENERAL

- 11.01 The provisions of the Addendum, if any, shall be incorporated into this Agreement and form part hereof.
- 11.02 This Agreement shall be binding upon the undersigned and the respective executors, administrators, successors and assigns of the undersigned, but the undersigned shall not assign any of the rights or obligations of the undersigned hereunder without the prior written consent of the Bank.
- 11.03 The failure of either the undersigned or the Bank to require performance by the other of any provision hereof shall in no way affect the right thereafter to enforce such provision; nor shall the waiver by either party of any breach of any covenant, condition or proviso of this Agreement or any other agreement between the Bank and the undersigned be taken or held to be a waiver of any further breach of the same covenant, condition or proviso.
- 11.04 This Agreement shall be in addition to and not in substitution for any other agreement between the undersigned and the Bank.
- 11.05 The undersigned will execute, and agrees to be bound by the terms and conditions contained in, the Bank's standard form of Operation of Account Agreement or appropriate form of current account authority. Without limiting the generality of the foregoing, the undersigned agrees that any statement of the Account provided to the undersigned shall be deemed to be a correct and accurate statement of the Loan as at the date of the statement, unless the undersigned has notified the Bank of errors, irregularities or omissions within the thirty day period specified in the Operation of Account Agreement or current account authority.
- 11.06 All payments relating to the Loan made by the undersigned pursuant to this Agreement shall be paid in the currency in which the Loan is outstanding. All other amounts owing hereunder shall be paid in Canadian dollars except as otherwise herein agreed.

In the event the Bank is required to recover any amount owing hereunder by way of judicial proceeding, all amounts owing hereunder shall be payable in Canadian dollars. Notwithstanding the foregoing, the obligation of the undersigned under this Agreement to make payments in U.S. dollars shall not be discharged or satisfied by any tender or recovery pursuant to any judgment expressed in or converted into Canadian dollars except to the extent that such tender or recovery shall result in the effective receipt by the Bank of the full amount of U.S. dollars so payable hereunder. Accordingly, the obligation of the undersigned shall be enforceable as an alternative or additional cause of action for the purpose of recovery in Canadian dollars of the amount (if any) by which such effective receipt shall fall short of the full amount of U.S. dollars so payable hereunder and shall not be affected by any judgment being obtained for any other sums due hereunder.

For purposes of recovery by the Bank of amounts debited to the U.S. Dollar Account, the Canadian Dollar Equivalent Amount shall apply. "Canadian Dollar Equivalent Amount" shall mean, on any date, the amount of

Canadian dollars into which U.S. dollars may be converted at the Bank's applicable noon spot buying rate on the date such conversion is made.

- 11.07 Time shall be of the essence of this Agreement.
- 11.08 If more than one person signs this Agreement, the obligations of the undersigned are joint and several and the Bank is authorized to honour any cheque drawn on the Account or pay any withdrawal from the Account to create or increase the Loan if any such cheque or withdrawal request is signed by one of the undersigned.
- 11.09 It is the express wish of the parties that this Agreement and any related documents be drawn up and executed in English. Les parties conviennent que la présente convention et tous les documents s'y rattachant soient rédigés et signés en anglais.

As at Jan 8, 2006 (year).

Witnesses:

Customer: GRAF CANADA LTD.

Kath Dudley

By:

[Signature]

Kath Dudley

By:

S. Fick

By:

By:

(To be signed by Account Holder(s), or by authorized signing officer(s) in the case of corporations, societies, lodges, etc. In the case of corporations affix seal where applicable.)

# ADDENDUM TO OPERATING LOAN AGREEMENT

## Lending Margin Calculation

The following Lending Margin Calculation is applicable to the attached Operating Loan Agreement. The calculation and the amount of the Lending Margin Calculation is in the sole and complete discretion of the Bank, and in cases of dispute, the Lending Margin Calculation calculated by the Bank shall prevail.

The Lending Margin Calculation shall be an amount equal to:

All advances to be contained at all times within the Lending Margin Formula:

75% of the Bank's estimated worth of assigned Canadian and US domiciled Accounts Receivable over which the Bank holds a valid first charge, less accounts past due 90 days or more, accounts in dispute and all amounts owing from non-arms length parties, plus 50% of finished goods inventory (capped at \$2,500,000).

If not  
applicable,  
insert N/A

## Documentation:

Monthly (within 30 days of month end):

Aged list of Accounts Receivable and Accounts Payable including schedule of contra accounts (as necessary); accompanied with a certified calculation showing compliance with Lending Margin Formula.

Quarterly (within 45 days of quarter end):

Internally prepared quarterly financial statements of the Borrower, supported by variance analysis providing explanations for material variances between actual results and projections presented to the Bank. accompanied with a certified calculation showing compliance with Financial Covenants.

Annually (within 120 days of fiscal year end):

Audited annual financial statements of the Borrower and of the Guarantors (consolidated and unconsolidated), supported by variance analysis providing explanations for material variances between actual results and projections presented to the Bank.

Annual business plan of the Borrower for the next fiscal year, comprising of a minimum of a balance sheet, income statement, cashflow statement, capital and/or lease expenditures schedule, tax liabilities, and major assumptions utilized to be provided no later than 45 days prior to the end of the then current fiscal year.

If not  
applicable,  
insert N/A

S.I. MATH

**Tab B**

- 1 -

Exhibit "B" to the Affidavit of Hugh Devlin, sworn  
before me this 20<sup>th</sup> day of April, 2016.

  
\_\_\_\_\_  
Commission for Taking Affidavits, etc.



Bank of Montreal

Alberta Personal Property  
Security Act Security Agreement

### SECURITY AGREEMENT

The undersigned (hereinafter called the "Debtor") hereby enters into this Security Agreement with Bank of Montreal (hereinafter called the "Bank") for valuable consideration and as security for the repayment of all present and future indebtedness of the Debtor to the Bank and interest thereon and for the payment and discharge of all other present and future liabilities and obligations, direct or indirect, absolute or contingent, of the Debtor to the Bank (all such indebtedness, interest, liabilities and obligations being hereinafter collectively called the "Obligations"). This Security Agreement is entered into pursuant to and is governed by the Alberta Personal Property Security Act insofar as it affects personal property located in Alberta.

1. The Debtor hereby represents and warrants to the Bank that it has assets at the following locations in Alberta:

2308 Portland Street S.E.  
Calgary, Alberta

2. The Debtor hereby

- (a) mortgages and charges to the Bank as and by way of a fixed and specific mortgage and charge, and grants to the Bank a security interest in, all its present and future goods and any proceeds therefrom, including, without limiting the generality of the foregoing, all fixtures, building materials, leased goods, plant, machinery, tools, furniture and any equipment now or hereafter owned or acquired, and any goods specifically listed or otherwise described in any Schedule hereto;
- (b) mortgages and charges to the Bank, and grants to the Bank a security interest in, all its present and future inventory and any proceeds therefrom, including, without limiting the generality of the foregoing, all raw materials, goods in process, work in progress, materials used or consumed in business, finished goods and packaging material and goods acquired or held for sale or lease or furnished under contracts of rental or service;
- (c) assigns, transfers and sets over to the Bank and grants to the Bank a security interest in, all its present and future intangibles, chattel paper, securities, documents of title, instruments and money, and any proceeds therefrom, including, without limiting the generality of the foregoing, all its present and future book debts and other accounts receivable, monetary obligations, contract rights and other choses in action of every kind or nature now due or hereafter to become due, including insurance rights arising from or out of the assets referred to in sub-clauses (a) and (b) above; and
- (d) charges in favour of the Bank as and by way of a floating charge its undertaking and all its property and assets, real and personal, moveable or immoveable, of whatsoever nature and kind, both present and future (other than property and assets hereby validly assigned or subjected to a specific mortgage and charge and to the exceptions hereinafter contained). For the purposes of this Security Agreement, the goods, inventory, intangibles,

Attach a schedule, if  
goods and/or equipment  
are to be listed

chattel paper, securities, documents of title, instruments, money, undertaking and all other property and assets of the Debtor referred to in this clause 2 are hereinafter sometimes collectively called the "Collateral".

3. The Collateral is on the date hereof primarily situate or located at the location(s) set out in clause 1 hereof but may from time to time be located at other premises of the Debtor. The Collateral may also be located at other places while in transit to and from such locations and premises; and the Collateral may from time to time be situate or located at any other place when on lease or consignment to any lessee or consignee from the Debtor. The Collateral shall not be removed from the Province of Alberta without the prior written consent of the Bank.
4. It is hereby declared that the last day of any term of years reserved by any lease, verbal or written, or any agreement therefor, now held or hereafter acquired by the Debtor, is hereby or shall be excepted out of the mortgages, charges and security interests hereby created, but the Debtor shall stand possessed of the reversion of one day remaining in the Debtor in respect of any such term of years, for the time being demised, as aforesaid upon trust to assign and dispose of the same as any purchaser of such term of years shall direct. There shall also be excluded from the security created by clause 2 (d) after-acquired consumer goods of the Debtor other than when subject to purchase money security interests in favour of the Bank, and other than accessions.
5. The Debtor
  - (a) shall not without the prior written consent of the Bank sell or dispose of any of the Collateral other than that described in sub-clause (b) of clause 2 above which may be sold only in the ordinary course of business and for the purpose of carrying on the same; and if the amounts of any of the Collateral of the type referred to in sub-clause (c) of clause 2 above or any proceeds arising from the Collateral of the type described in sub-clauses (a) and (b) of clause 2 above shall be paid to the Debtor, the Debtor shall receive the same as Trustee for the Bank and forthwith pay over the same to the Bank. The Debtor shall not without the prior written consent of the Bank create any liens upon or assign or transfer as security or pledge or hypothecate as security or create a security interest in the Collateral except to the Bank. The Debtor agrees that the Bank may at any time before or after default require any account debtor of the Debtor to make payment to the Bank and the Bank may take control of any proceeds referred to in sub-clauses (a), (b) and (c) of clause 2 hereof and may hold all amounts received from any account debtors and any proceeds as cash collateral as part of the Collateral and as security for the Obligations of the Debtor to the Bank.
  - (b) covenants not to substitute or modify any of the Debtor's rights under any Collateral of the type listed in sub-clause (c) of clause 2 above without the written consent of the Bank, and any substitution or modification not consented to may at the option of the Bank be treated as an act of default hereunder.
6. The Debtor shall at all times do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered all and singular every such further acts, deeds, transfers, assignments, security agreements and assurances as the Bank may reasonably require for the better granting, transferring, assigning, charging, setting over, assuring and confirming unto the Bank the property and assets hereby mortgaged and charged or subjected to security interests or intended so to be or which the Debtor may hereafter become bound to mortgage, charge, transfer, assign or subject to a security interest in favour of the Bank and for the better accomplishing and effectuating of this Security Agreement.
7. The Debtor shall at all times have and maintain insurance over the Collateral against

risks of fire (including so-called extended coverage), theft, and also against such other risks as the Bank may reasonably require in writing, containing such terms, in such form, for such periods and written by such companies as may be reasonably satisfactory to the Bank. The Debtor shall duly and seasonably pay all premiums and other sums payable for maintaining such insurance and shall cause the insurance money thereunder to be payable to the Bank as its interest hereunder may appear and shall, if required, furnish the Bank with certificates or other evidence satisfactory to the Bank of compliance with the foregoing insurance provisions.

8. The Debtor shall keep proper books of account and shall at all times upon request by the Bank furnish the Bank with such information concerning the Collateral and the Debtor's affairs and business as the Bank may reasonably request, including financial statements, lists of inventory and equipment and lists of accounts receivable showing the amounts owing upon each account and securities therefor and copies of all financial statements, books and accounts, invoices, letters, papers and other documents in any way evidencing or relating to the account. The Debtor shall permit the Bank at all reasonable times to enter onto its premises to inspect and copy its books, and to inspect the Collateral.
9. The Debtor shall be in default under this Security Agreement upon the occurrence of any one of the following events:
  - (a) the Debtor shall default under any of the Obligations;
  - (b) the Debtor shall default in the due observance or performance of any covenant, undertaking or agreement heretofore or hereafter given to the Bank, whether contained herein or not and including any covenant or undertaking set out in any Schedule to this Security Agreement;
  - (c) an execution of any other process of any court shall become enforceable against the Debtor or a distress or analogous process shall be levied upon the property of the Debtor or any part thereof, or a receiver shall be appointed for the Debtor;
  - (d) the Debtor shall become insolvent or commit an act of bankruptcy, or make an assignment in bankruptcy or a bulk sale of its assets or a bankruptcy petition shall be filed or presented against the Debtor and not be bona fide opposed by the Debtor;
  - (e) the Debtor shall cease to carry on business, or shall fail to keep the Collateral in repair and in good working order, or shall fail to promptly pay when due all taxes, licence fees and assessments levied on the Debtor;
  - (f) the Bank in good faith and on commercially reasonable grounds deems itself insecure or decides that the due discharge of the Obligations, the Collateral or the security is in jeopardy;
  - (g) the Debtor shall, without the prior written consent of the Bank, pay any dividend or bonus to shareholders or otherwise distribute or reduce its capital, or make capital expenditures in excess of \$350,000.00 in any year, or make any capital expenditure or payment while in default of the Obligations, or become guarantor, surety or endorser of the obligations of any other person other than in favour of the Bank, or lend money other than in the ordinary course of its business.
10. Upon any default under this Security Agreement, the Bank may declare any or all of the Obligations to be immediately due and payable and may proceed to realize the security hereby constituted and to enforce its rights by any method not prohibited by law,



including by the appointment by instrument in writing of a receiver or receivers of the subject matter of such security or any part thereof and such receiver or receivers may be any person or persons, whether an officer or officers or employee or employees of the Bank or not, and the Bank may remove any receiver or receivers so appointed and appoint another or others in his or their stead; or by proceedings in any court of competent jurisdiction for the appointment of a receiver or receivers, or by sale of the Collateral or any part thereof; or by any other action, suit, remedy or proceeding authorized or permitted hereby or by law or by equity; and may file such proofs of claim and other documents as may be necessary or advisable in order to have its claim lodged in any bankruptcy, winding-up or other judicial proceedings relative to the Debtor. Any such receiver or receivers so appointed shall have power to take possession of the Collateral or any part thereof and if appointed a receiver-manager the power to carry on the business of the Debtor, and to borrow money required for the maintenance, preservation or protection of the Collateral or any part thereof or the carrying on of the business of the Debtor, and to further charge the Collateral in priority to the security constituted by this Security Agreement as security for money so borrowed, and to sell, lease or otherwise dispose of the whole or any part of the Collateral on such terms and conditions and in such manner as he shall determine. In exercising any powers any such receiver or receivers shall act as agent or agents for the Debtor and the Bank shall not be responsible for his or their actions.

In addition, the Bank may enter upon and lease or sell the whole or any part or parts of the Collateral.

Any such sale shall be on such terms and conditions as to credit or otherwise and as to upset or reserve bid or price as to the Bank in its discretion may seem advantageous and such sale may take place whether or not the Bank has taken possession of such property and assets.

No remedy for the realization of the security hereof or for the enforcement of the rights of the Bank shall be exclusive of or dependent on any other such remedy, but any one or more of such remedies may from time to time be exercised independently or in combination and the Bank may exercise any one or more of such remedies in respect of all or any portion of the Collateral as the Bank deems fit. The term "receiver" as used in this Security Agreement includes a receiver and manager.

11. The Bank shall not be responsible for any loss or damage to the Collateral, whether caused by the negligence or fault of the Bank, its servants or agents, or a sheriff or receiver, and the Bank shall not be obliged to preserve rights against other persons, keep the Collateral identifiable or repair, process or prepare the Collateral for disposition, and shall only be liable to account for funds (net of costs of collection, realization and sale, including solicitor and his own client legal costs), actually received by the Bank.
12. Any receiver-manager appointed by the Bank may carry on the business of the Debtor, and in addition to any powers or rights granted by law, a receiver or receiver-manager may, but shall be under no obligation to:
  - (a) exercise any power or right granted to the Bank hereunder;
  - (b) enter upon any premises under the control of the Debtor and take possession of the Collateral by any method not prohibited by law;
  - (c) borrow money by charge against the Collateral for the preservation, processing, maintenance or preparation for sale of the Collateral, or for any other purpose;

- (d) realize on and dispose of the Collateral by any method not prohibited by law, and on any terms, whether to the highest bidder or not and whether in the ordinary course of the Debtor's business or not;
  - (e) execute deeds, enter contracts and otherwise act as the attorney of the Debtor in dealing with the Collateral;
  - (f) institute, defend, compromise, settle or continue any proceedings relating to the Collateral;
  - (g) generally, to do any act necessary or convenient to the realization of the Collateral that the Debtor itself could have done.
13. Any and all payments made in respect of the Obligations from time to time and moneys realized from any securities held therefor (including moneys realized on any enforcement of this Security Agreement) may be applied to such part or parts of the Obligations as the Bank may see fit, and the Bank shall at all times and from time to time have the right to change any appropriation as the Bank may see fit.
14. The Debtor agrees to pay all reasonable expenses, including solicitor's fees as between a solicitor and his own client and disbursements and the remuneration of any receiver appointed hereunder, incurred by the Bank in the preparation, perfection and enforcement of this Security Agreement or the Obligations, or in the holding, repairing, processing or preparing for disposition and disposing of the Collateral, with interest at the rate provided in the obligations, and the payment of such expenses shall be secured hereby.
15. The Bank may waive any default herein referred to; provided always that no act or omission by the Bank in the premises shall extend to or be taken in any manner whatsoever to affect any subsequent default or the rights resulting therefrom.
16. The Debtor acknowledges that value has been given, that the Debtor has rights in the Collateral and that the parties have not agreed to postpone the time for attachment of any security interest in this Security Agreement.
17. The security hereof is in addition to and not in substitution for any other security now or hereafter held by the Bank and shall be general and continuing security notwithstanding that the Obligations of the Debtor shall at any time or from time to time be fully satisfied or paid.
18. Nothing herein shall obligate the Bank to make any advance or loan or further advance or loan or to renew any note or extend any time for payment of any indebtedness or liability of the Debtor to the Bank.
19. This Security Agreement shall ensure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns of the Debtor and the Bank.
20. This Security Agreement is a security agreement within the meaning of the Alberta Personal Property Security Act and does not constitute an acknowledgement of any particular indebtedness or liability of the Debtor to the Bank.
21. In construing this Security Agreement, terms herein shall have the same meaning as defined in the Alberta Personal Property Security Act, unless the context otherwise requires. The word "Debtor", the personal pronoun "if" or "its" and any verb relating thereto and used therewith shall be read and construed as required by and in

defined in the Alberta Personal Property Security Act, unless the context otherwise requires. The word "Debtor", the personal pronoun "if" or "its" and any verb relating thereto and used therewith shall be read and construed as required by and in accordance with the context in which such words are used depending upon whether the Debtor is one or more individuals, corporations or partnerships and, if more than one, this Security Agreement shall apply and be binding upon each of them severally. The term "successors" shall include, without limiting its meaning, any corporation resulting from the amalgamation of a corporation with another corporation and, where the Debtor is a partnership, any new partnership resulting from the admission of new partners or any other change in the Debtor, including, without limiting the generality of the foregoing, the death of any or all of the partners.

22. The Debtor waives receipt of any financing statement registered by the Bank and any confirmation of registration.

23. The Debtor acknowledges receipt of a copy of this Security Agreement.

IN WITNESS WHEREOF this Security Agreement has been executed by the Debtor on the 20<sup>th</sup> day of October, 2006.

GRAF CANADA LTD.

By:

Name:

*M. J. Hill*

Title:

*President*

By:

Name: *Steve Feick*

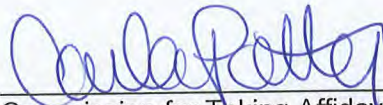
Title: *Executive Vice President*

c/s

# Tab C

- 1 -

Exhibit "C" to the Affidavit of Hugh Devlin, sworn  
before me this 20<sup>th</sup> day of April, 2016.

A handwritten signature in blue ink, appearing to read "Paula Polley", is written over a horizontal line.

Commission for Taking Affidavits, etc.

Search ID#: Z07851518

**Transmitting Party**WEST-END REGISTRATIONS LICENSING & SEARCHES LTD.  
(P158)10011 170 STREET  
EDMONTON, AB T5P 4R5

Party Code: 50076967

Phone #: 780 483 8211

Reference #: 01290316-EEC806D9 29

Search ID #: Z07851518

Date of Search: 2016-Apr-19

Time of Search: 12:08:22

**Business Debtor Search For:**

GRAF CANADA LTD

Both Exact and Inexact Result(s) Found

**NOTE:**

A complete Search may result in a Report of Exact and Inexact Matches.

Be sure to read the reports carefully.



Search ID#: Z07851518

**Business Debtor Search For:**

GRAF CANADA LTD

Search ID #: Z07851518

Date of Search: 2016-Apr-19

Time of Search: 12:08:22

Registration Number: 06102309058

Registration Type: SECURITY AGREEMENT

Registration Date: 2006-Oct-23

Registration Status: Current

Expiry Date: 2016-Oct-23 23:59:59

Exact Match on: Debtor

No: 1

**Amendments to Registration**

11100519301

Renewal

2011-Oct-05

**Debtor(s)****Block****Status**

1 GRAF CANADA LTD.  
2308 PORTLAND STREET SE  
CALGARY, AB T2G 4M6

Current

**Secured Party / Parties****Block****Status**

1 BANK OF MONTREAL  
11TH FLOOR, 100 KING STREET WEST  
TORONTO, ON M5Y 1A1

Current

**Collateral: General****Block** **Description****Status**

1 ALL PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY.

Current

**Particulars****Block** **Additional Information****Status**

1

Current

Search ID#: Z07851518

ADDITIONAL INFORMATION: COMPLETE ADDRESS OF SECURED PARTY: BANK  
ON MONTREAL 11TH FLOOR, FIRST CANADIAN PLACE 100 KING STREET  
WEST TORONTO, ON M5Y 1A1



Search ID#: Z07851518

**Business Debtor Search For:**

GRAF CANADA LTD

Search ID #: Z07851518

Date of Search: 2016-Apr-19

Time of Search: 12:08:22

Registration Number: 06102309140

Registration Type: LAND CHARGE

Registration Date: 2006-Oct-23

Registration Status: Current

Registration Term: Infinity

Exact Match on: Debtor

No: 1

**Debtor(s)****Block****Status**

1 GRAF CANADA LTD.  
2308 PORTLAND STREET SE  
CALGARY, AB T2G 4M6

Current

**Secured Party / Parties****Block****Status**

1 BANK OF MONTREAL  
11TH FLOOR, 100 KING STREET WEST  
TORONTO, ON M5Y 1A1

Current

**Particulars****Block****Additional Information****Status**

1 ADDITIONAL INFORMATION: COMPLETE ADDRESS OF SECURED PARTY: BANK  
OF MONTREAL 11TH FLOOR, FIRST CANADIAN PLACE 100 KING STREET  
WEST TORONTO, ON M5Y 1A1

Current

Search ID#: Z07851518

**Business Debtor Search For:**

GRAF CANADA LTD

Search ID #: Z07851518

Date of Search: 2016-Apr-19

Time of Search: 12:08:22

Registration Number: 12060702272

Registration Type: SECURITY AGREEMENT

Registration Date: 2012-Jun-07

Registration Status: Current

Expiry Date: 2016-Jun-07 23:59:59

Exact Match on: Debtor

No: 1

**Debtor(s)****Block****Status**

1 GRAF CANADA LTD.  
2308 PORTLAND STREET SE  
CALGARY, AB T2G4M6

Current

**Secured Party / Parties****Block****Status**

1 NATIONAL LEASING GROUP INC.  
1525 Buffalo Place  
WINNIPEG, MB R3T 1L9

Current

Phone #: 204 954 9000

Fax #: 204 954 9099

**Collateral: General****Block**      **Description****Status**

1 ALL TELEPHONE SYSTEMS & VOIP OF EVERY NATURE OR KIND DESCRIBED IN  
LEASE NUMBER 2583305 BETWEEN THE SECURED PARTY, AS LESSOR AND THE  
DEBTOR AS LESSEE, AS AMENDED FROM TIME TO TIME, TOGETHER WITH ALL  
ATTACHMENTS, ACCESSORIES AND SUBSTITUTIONS.

Current

Search ID#: Z07851518

**Business Debtor Search For:**

GRAF CANADA LTD

Search ID #: Z07851518

Date of Search: 2016-Apr-19

Time of Search: 12:08:22

Registration Number: 13120605476

Registration Type: SECURITY AGREEMENT

Registration Date: 2013-Dec-06

Registration Status: Current

Expiry Date: 2018-Dec-06 23:59:59

Exact Match on: Debtor

No: 1

Inexact Match on: Debtor

No: 2

**Debtor(s)****Block****Status**

1 GRAF CANADA LTD.  
2308 PORTLAND ST SE  
CALGARY, AB T2G4M6

Current

**Block****Status**

2 GRAF CANADA  
2308 PORTLAND ST SE  
CALGARY, AB T2G4M6

Current

**Secured Party / Parties****Block****Status**

1 NATIONAL LEASING GROUP INC.  
1525 Buffalo Place  
WINNIPEG, MB R3T 1L9

Current

Phone #: 204 954 9000

Fax #: 204 954 9099

**Collateral: General****Block    Description****Status**

Search ID#: Z07851518

1	ALL INDUSTRIAL AND MANUFACTURING EQUIPMENT-UNDERTRIMMER ZIGZAG MACHINE, AK LIFTER, THREAD TRIMMING, BACKTACK OF EVERY NATURE OR KIND DESCRIBED IN LEASE NUMBER 2643937 BETWEEN 7964927 CANADA INC. DBA LEASE PLUS FINANCIAL, AS ORIGINAL LESSOR AND THE DEBTOR, AS LESSEE, WHICH LEASE WAS ASSIGNED BY THE ORIGINAL LESSOR TO THE SECURED PARTY, AS AMENDED FROM TIME TO TIME, TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES AND SUBSTITUTIONS.	Current
---	--	---------

**Particulars**

<b><u>Block</u></b>	<b><u>Additional Information</u></b>
---------------------	--------------------------------------

**Status**

1	Purchase Money Security Interest.	Current
---	-----------------------------------	---------

Search ID#: Z07851518

**Business Debtor Search For:**

GRAF CANADA LTD

Search ID #: Z07851518

Date of Search: 2016-Apr-19

Time of Search: 12:08:22

Registration Number: 15122406672

Registration Type: SECURITY AGREEMENT

Registration Date: 2015-Dec-24

Registration Status: Current

Expiry Date: 2020-Dec-24 23:59:59

Exact Match on: Debtor

No: 1

**Debtor(s)****Block****Status**

1 GRAF CANADA LTD.  
2308 PORTLAND STREET SE  
CALGARY, AB T2G 4M6

Current

**Secured Party / Parties****Block****Status**

1 BANK OF MONTREAL  
FIRST CANADIAN PLACE, 7TH FLOOR  
TORONTO, ON M5X 1A1

Current

**Collateral: General****Block****Description****Status**

1 ALL PROPERTY PLEDGED BY THE DEBTOR TO THE SECURED PARTY PURSUANT TO A DEPOSIT PLEDGE AGREEMENT BETWEEN THE DEBTOR AND THE SECURED PARTY, INCLUDING BUT NOT LIMITED TO THE GIC 0002-9680-484. PROCEEDS: ACCOUNTS, CHATTEL PAPER, MONEY, INTANGIBLES, GOODS, DOCUMENTS OF TITLE, INVENTORY, INSTRUMENTS AND SECURITIES (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INSURANCE PROCEEDS.

Current

Result Complete

# Tab D

- 1 -

Exhibit "D" to the Affidavit of Hugh Devlin, sworn  
before me this 20<sup>th</sup> day of April, 2016.

  
\_\_\_\_\_  
Commission for Taking Affidavits, etc.

**BMO Bank of Montreal**

Perseis Private Equity General Partner Inc. / Graf Canada Ltd.

**Term Sheet**

**March 25, 2014**

*The terms and conditions outlined below in this term sheet (this "Term Sheet") have been developed solely to illustrate a basis of providing potential financing for the Borrower. These terms and conditions are for discussion purposes only and do not, at this time, represent an offer of commitment to provide financing. A formal commitment would require a satisfactory due diligence review and authorization of the proposal by the Lender and shall not be established unless and until the parties execute and deliver definitive loan documentation. The information provided in the Term Sheet is for the confidential use of the Borrower and Sponsor, and may not, without the prior written consent of the Lender be disclosed to any other party other than the Borrower's employees, lawyers and financial advisors (but not commercial lenders) with a need to know the same. All dollar amounts are in Canadian dollars unless expressly stated otherwise.*

**BORROWER(S):** Graf Canada Ltd.

**SPONSORS:** Perseis Private Equity Limited Partnership and Perseis (QLP) Private Equity Limited Partnership by their sole general partner Perseis Private Equity General Partner Inc.

**LENDER:** BMO Bank of Montreal (referred to herein as the "Bank" or "Lender")

**FACILITIES:** Total credit facilities of up to \$5,100,000 in aggregate (amounts are stated in Canadian dollars).

**FACILITY #1: REVOLVING OPERATING LOAN**

**AMOUNT:** Up to \$5,000,000 Canadian or the Canadian Dollar Equivalent of U.S. dollar direct advances. "Canadian Dollar Equivalent" means the amount of Canadian dollars which would be required to purchase the relevant stated amount of U.S. dollars based on the Exchange Rate at the effective date of the calculation. "Exchange Rate" means, on any day, with respect to the exchange of Canadian dollars or U.S. dollars (the "First Currency") into the other currency (the "Other Currency"), the noon spot rate of the Bank of Canada on that day for purchases of the First Currency with the Other Currency or, if such rate is not or has not yet been quoted on such day, the last preceding noon spot rate of the Bank of Canada.

**PURPOSE:** To finance day to day operating requirements.

**TYPE:** Revolving credit facility.

**AVAILABILITY:** Available by way of Canadian Dollar direct advances and/or US dollar direct advances and/or Bankers' Acceptances and/or Letters of Credit (up to a \$1,000,000 maximum) with a term of one year or less.

All advances to be contained at all times within the Lending Margin Formula:

75% of the Bank's estimated worth of assigned Canadian and US domiciled Accounts Receivable over which the Bank holds a valid first charge, less



**BMO Bank of Montreal**

Perseis Private Equity General Partner Inc. / Graf Canada Ltd.

Term Sheet

March 25, 2014

accounts past due 90 days or more, accounts in dispute and all amounts owing from non-arms length parties, plus 50% of finished goods inventory (capped at \$2,500,000.

100% of the value of deposits from the Sponsor invested in overnight funds, pledged to the bank and deposited in a restricted account maintained with the Lender.

**REPAYMENT:** On Demand

**REMUNERATION:** BMO Prime Rate ("Prime") + 1.75% per annum, payable monthly in arrears on all Canadian dollar direct advances;

Bankers' Acceptances (BA's) + 3.00% per annum, payable upfront as a stamping fee upon issuance and acceptance;

U.S. Base Rate ("Base Rate") + 1.75% per annum, payable monthly in arrears on all U.S. dollar direct advances; and

Letters of Credit shall have a fee equal to 3.00% per annum.

**BMO Prime Rate** is the floating annual rate of interest established from time to time by the Lender as the reference rate it will use to determine rates of interest on Canadian dollar direct loans to customers in Canada. Interest payable on Canadian dollar direct advances will be due and payable monthly in arrears based on a 365/366-day year.

**U.S. Base Rate** is the floating annual rate of interest established from time to time by the Lender as the reference rate it will use to determine rates of interest on U.S. dollar loans to its customers in Canada and designated as its "**U.S. Dollar Base Rate**".

**FACILITY #2: CORPORATE MASTERCARD FACILITY**

**PURPOSE:** For company expense accounts aggregating up to \$100,000.00 CAD.

**AVAILABILITY:** The Facility will be available in either CAD or USD for draw down upon satisfaction of, and compliance with, Conditions Precedent and Terms Applicable to all Facilities as recited herein.

Facility is payable on Demand at all times, and subject to annual review. Availability will be as per standard MasterCard Agreement.

**REMUNERATION:** As per standard MasterCard Agreement.

**BMO Bank of Montreal**

**Perseis Private Equity General Partner Inc. / Graf Canada Ltd.**

**Term Sheet**

**March 25, 2014**

**TERMS APPLICABLE TO ALL FACILITIES:**

**CONDITIONS PRECEDENT**

**TO DRAWDOWN:**

Those customarily found in loan documentation of this nature including, without limitation, the following:

1. Satisfactory completion of a due diligence review with respect to the existing operations of the Borrower including but not limited to current financial statements, projected business opportunities, asset values, environmental questionnaires and evidence of meeting all laws/regulations.
2. Acceptance by the Borrower of a financing commitment from the Lender.
3. Completion and registration of all security and loan documentation satisfactory to the Lender and its legal counsel.
4. Appropriate Borrowing and Enabling Resolutions.
5. Satisfactory legal opinions relating to all matters considered relevant by the Lender and its counsel, including the due authorization, execution, delivery and enforceability of the loan and security documentation by the Borrower and all related parties.
6. Limited recourse guarantee, pursuant to which the Sponsor Guarantees the indebtedness, liabilities and obligations of the Borrower to the Bank, limited in recourse to the deposits pledged to the Bank by the Sponsor, pursuant to the Deposit Pledge Agreement described below
7. Deposit Pledge Agreement Granted by the Sponsor to the Bank, pursuant to which the Sponsor will (i) pledge amounts on deposit in a bank account maintained by the Sponsor at the Bank, and (ii) agree that the amounts on deposit with the Bank can only be withdrawn by the Sponsor with the prior approval of the Bank.

**SECURITY & OTHER**

**DOCUMENTATION:**

To include but not limited to:

1. A term sheet setting out the Terms and Conditions of the facilities including the usual conditions precedent, representations and warranties, reporting requirements and financial covenants.
2. General Security Agreement (perfected under PPSA, UCC and any such other registration system deemed appropriate) and such other documentation as required, providing the Bank with a first, fixed and floating charge over all assets, including accounts receivable, inventory and equipment, to include standard Section 427 inventory security registration. The foregoing along with cross-guarantees shall be provided by all material subsidiaries.
3. Registered General Assignment of Book Debts (perfected under PPSA, UCC and any such other registration system deemed appropriate).
4. Landlord lien waivers for leased locations with material inventory.
5. Assignment of material contracts, insurance, licenses, trademarks,

**BMO Bank of Montreal**

**Perseis Private Equity General Partner Inc. / Graf Canada Ltd.**

**Term Sheet**

**March 25, 2014**

- copyrights, patents & other intellectual property as appropriate.
- 6. Environmental indemnities, as appropriate
- 7. Corporate MasterCard documentation as and when required.
- 8. Solicitors unqualified letter(s) of opinion for all security and loan documentation.
- 9. Deposit Pledge Agreement (perfected by registration under the PPSA and by control).
- 10. Minimum of \$1,000,000 in deposits invested in overnight funds to be deposited in a restricted account maintained with the Lender and pledged to the bank pursuant to the Deposit Pledge Agreement.

**REPORTING  
REQUIREMENTS:**

**Monthly (within 30 days of month end):**

Certified calculation showing compliance with Lending Margin Formula along with summary of accounts receivables/payables for the month.

**Monthly (within 30 days of month end):**

Aged list of Accounts Receivable and Accounts Payable including schedule of contra accounts (as necessary); accompanied with a certified calculation showing compliance with Lending Margin Formula

**Quarterly (within 45 days of quarter end):**

Internally prepared, Standalone quarterly financial statements of the Borrower, supported by variance analysis providing explanations for material variances between actual results and projections presented to the Bank, accompanied with a certified calculation showing compliance with Financial Covenants (accompanying compliance certificate in quarters 1, 2 and 3 only).

**Annually (within 120 days of fiscal year end):**

Audited annual financial statements of the Borrower accompanied with a compliance certificate including a certified calculation showing compliance with Financial Covenants and of the Guarantors (consolidated and unconsolidated), supported by variance analysis providing explanations for material variances between actual results and projections presented to the Bank.

Annual business plan of the Borrower for the next fiscal year, comprising of a minimum income statement, capital and/or lease expenditures schedule, tax liabilities, and major assumptions utilized to be provided no later than first day of subject fiscal year.

**BMO Bank of Montreal**

Perseis Private Equity General Partner Inc. / Graf Canada Ltd.

Term Sheet

March 25, 2014

**FINANCIAL COVENANTS:**

At all times, the Borrower will observe and maintain the following financial covenants based on the Borrower's consolidated financial statements (to be calculated on a rolling 4-quarter basis unless otherwise indicated).

1. **Minimum Current Ratio:** 1.5:1.
2. **Maximum Total Liabilities to Tangible Net Worth:** 2.00:1.
3. **Minimum Fixed Charge Coverage Ratio:** 1.00:1.
4. **Maximum Annual Capital Expenditures** not to exceed \$350,000, subject to compliance with all covenants hereunder both before and after such expenditures.

**Definitions:**

**EBITDA** = Earnings as defined in the Company's consolidated financial statements prepared in accordance with Canadian accounting standards for private enterprises (ASPE) Before Interest Expense, Taxes on Earnings, Depreciation and Amortization.

**Net Worth** = In accordance with ASPE, the sum of common share capital and contributed surplus plus retained earnings plus unrealized foreign currency adjustment and debt subordinated to the Bank.

**Tangible Net Worth** = Net Worth less any amounts due from related parties, goodwill and such other assets classified as intangible under ASPE, but includes amounts due to related parties and trade receivables due from related parties that arise in the normal course of business. For covenant calculation, TNW to include the deposit pledged by the Sponsor to the Lender (which shall be deposited in an account maintained with the Lender) pursuant to the Deposit Pledge Agreement referred to above.

**Total Liabilities** = In accordance with ASPE, Total Liabilities is equal to the sum of all current and long term liabilities, outstanding Letters of Credit less any amounts formally subordinated to the Bank. Total Liabilities to exclude future income taxes.

**Current Ratio** = the ratio of Current Assets divided by Current Liabilities.

**Fixed Charge Coverage Ratio** = EBITDA less cash taxes and capital expenditures, divided by the aggregate of fixed principal repayments hereunder and as made under other financing contract(s) plus Interest expense.

**BMO Bank of Montreal**

**Perseis Private Equity General Partner Inc. / Graf Canada Ltd.**

**Term Sheet**

**March 25, 2014**

**Accounting terms; ASPE:** Except as otherwise expressly provided herein, all terms of accounting or financial nature shall be construed in accordance with ASPE, as in effect from time to time. All calculations of the components of financial information for the purposes of determining compliance with the financial ratios and financial covenants contained herein shall be made on a basis consistent with ASPE in existence as at the date of this Agreement and used in preparation of the consolidated financial statements of the Borrower. Upon adoption by the Borrower of International Financial Reporting Standards (IFRS), or in event of a change in ASPE, the Borrower and the Bank shall negotiate in good faith to revise (if appropriate) such ratios and covenants to give effect to the intention of the parties under this agreement at the closing date, and any new ratio or covenant shall be subject to the approval of the Bank. In the event that such a negotiation is unsuccessful, all calculations thereafter made for the purpose of determining compliance with the financial ratios and financial covenants contained herein shall be made on a basis consistent with ASPE in existence at the closing date.

**NON-FINANCIAL COVENANTS:**

Usual, including maintenance of insurance; payment of taxes; compliance with statutes and with environmental standards; Reporting Requirements as set out above; notices of default on a timely basis; no material judgements; access to books and records; no assumption of additional debt or guarantee obligations by the Borrower except for leases and/or purchase money security interests entered into with respect to capital expenditures to a maximum of \$350,000 in any consecutive 12-month period, no merger or amalgamation without the Lender's prior written approval; no 3<sup>rd</sup> party investments or acquisitions are to be made without the Lender's prior written consent; no change in ownership;

**REPRESENTATIONS & WARRANTIES:**

Usual, including confirmation of corporate status and authority, non-violation of law or existing agreements, no material litigation, satisfactory insurance coverage, continued compliance with environmental regulations and other such representations and warranties customarily contained in loan agreements for similar financings.

**AUTHORIZATION AND CONSENT:**

For the purpose of "tombstone marketing", the Borrower authorizes and consents to reproduction, disclosure and use by the Lender of the Borrower's name, identifying logo and the transaction herein contemplated (all such information being called the "Information") to enable the Lender to publish promotional "tombstones". The Borrower acknowledges and agrees that the Lender shall be entitled to determine, in its discretion, whether to use the Information; that no compensation will be payable by the Lender resulting

**BMO Bank of Montreal**

Perseis Private Equity General Partner Inc. / Graf Canada Ltd.

**Term Sheet**

**March 25, 2014**

therefrom; and that the Agent shall have no liability whatsoever to the Borrower or any of its employees, officers, directors, affiliates or shareholders in obtaining and using the Information in accordance with this paragraph.

**CONFIDENTIAL  
INFORMATION RELEASE:**

Borrower consents to the release of confidential information regarding the Business by the Lender to certain BMO Financial Group business groups and/or subsidiaries for the purpose of assisting BMO Financial Group and /or subsidiaries in supporting the Borrower with its strategic plans.

**CANADIAN REGULATORY REQUIREMENT (OSFD):**

The Borrower hereby confirms that the banking facilities established hereunder and in connection therewith, shall only be used by the Borrower for its business and only for its business transactions.

**INCREASED COSTS, TAXES, ETC.:**

Borrower will reimburse any additional costs the Lender incurs in performing its obligations under the facility to be made available to the Borrower, resulting from any change in law, including any reserve or special deposit requirement or any tax or capital requirement or any change in the compliance of the Lender therewith, that has the effect, directly or indirectly, of increasing the cost of funding to the Lender or reducing the effective return on its capital. All loan repayments shall be made free and clear of any present and future taxes, withholdings or any other deductions.

**EXPENSES:**

All legal and other out of pocket costs incurred by the Lender with respect to completion, preparation, negotiation and enforcement of loan documents shall be for the account of the Borrower whether or not the transaction is completed.

**GOVERNING LAW:**

Province of Alberta and Canada as appropriate.

**LENDER'S  
COUNSEL:**

Dentons Canada LLP

**BMO Bank of Montreal**

Perseis Private Equity General Partner Inc. / Graf Canada Ltd.

Term Sheet

March 25, 2014

We sincerely appreciate the opportunity of reviewing your financial requirements. Should you wish to accept this offer, we would ask that you do so by signing and returning a duplicate copy of this Term Sheet.

Yours truly,

Bank of Montreal

Per:

Frederic Gosselin, CMA  
Director-Diversified Industries

The terms and conditions of the forgoing Term Sheet are acknowledged and agreed to by the undersigned this 25<sup>th</sup> day of March, 2014.

**Graf Canada Ltd.**

Per:

Name: GESTH BROOKS  
Title: CEO & PRESIDENT

Per:

Name: \_\_\_\_\_  
Title: CFO

**Perseis Private Equity Limited Partnership, by its general partner Perseis Private Equity General Partner Inc.**

Per:

Name: Ian Collier  
Title: President & CEO

Per:

Name: Gerard McGrath  
Title: Executive Vice President & CEO

**Perseis (QLP) Private Equity Limited Partnership, by its general partner Perseis Private Equity General Partner Inc.**

Per:

Name: \_\_\_\_\_  
Title: President & CEO

Per:

Name: Gerard McGrath  
Title: Executive Vice President & CEO

Tab E



- 1 -

Exhibit "E" to the Affidavit of Hugh Devlin, sworn  
before me this 20<sup>th</sup> day of April, 2016.

  
\_\_\_\_\_  
Commission for Taking Affidavits, etc.

## DEPOSIT PLEDGE AGREEMENT

**THIS DEPOSIT PLEDGE AGREEMENT** made as of December 27, 2015 (this "Agreement") is executed by Graf Canada Ltd. (the "Borrower") in favour of Bank of Montreal (the "Lender").

### RECITALS

**WHEREAS** the Borrower has executed and delivered to the Lender a loan term sheet dated as of March 25, 2014, for total credit facilities of the Borrower of up to \$5,100,000 (as such term sheet may be amended, modified, varied, restated or replaced from time to time the "Term Sheet");

**AND WHEREAS** the Borrower has established the Designated Account with the Lender and will from time to time deposit amounts in the Designated Account;

**AND WHEREAS** the Borrower has agreed to pledge to the Lender all the present and future amounts deposited by the Borrower in the Designated Account as security for the payment and performance of the Guaranteed Obligations;

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the sum of Cdn. Ten (\$10) Dollars now paid by the Lender to the Borrower (the receipt and sufficiency of which are hereby acknowledged by the Borrower) and in consideration of the mutual covenants and agreements contained herein, the parties hereto covenant and agree as follows:

### 1. DEFINITIONS

(a) The terms "financial asset", "instrument", "intangible", "investment property", "money", "security entitlement", and "personal property" have the meanings given to them under the PPSA (as hereinafter defined).

(b) Unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing any gender include every gender.

(c) In this Agreement:

"Borrower's Obligations" means all present and future indebtedness, liabilities and obligations of any kind of the Borrower to the Lender related to, arising under, out of or in connection with the Term Sheet, direct or indirect, absolute or contingent, joint or several, matured or unmatured, and whether the liability of the Borrower is as borrower, principal, surety, guarantor, endorser or otherwise.

"Business Day" means any day other than a Saturday, Sunday or statutory holiday in the Province of Ontario.

- 2 -

**"Designated Account"** means account No. 9680-484, Transit 0002, established with the Lender by the Borrower at the Lender's branch located at 100 King Street West, 11th Floor, Toronto, Ontario, or such other account that the Lender may agree.

**"Deposit Collateral"** means all present and future amounts deposited by the Borrower in the Designated Account, including without limitation the account cash balance, notes, certificates and other investment property and financial assets relating thereto and all present and future investment property, instruments, money or intangibles resulting from such deposit, account cash balance, notes, certificates and other investment property, or into which such deposit, account cash balance, notes, certificates and other investment property may be converted or exchanged and all other rights and entitlements arising therefrom or related thereto, including without limitation all substitutions for any of the foregoing and interest, bonus and other payments derived therefrom or paid or payable under, relating to or in connection therewith and all direct and indirect proceeds of the foregoing.

**"PPSA"** means the *Personal Property Security Act* (Ontario), as amended from time to time and any legislation substituted therefore and any amendments thereto.

**"Security Interest"** means a mortgage, debenture, pledge, deposit by way of security, charge, encumbrance, hypothec, assignment by way of security, security interest, lien (whether statutory, equitable or at common law), conditional sale or title retention agreement, lease with option to purchase, a right of set-off, trust arrangement, and any other interest, howsoever created or arising, that secures payment or performance of an obligation.

## 2. RECITALS

The Borrower represents and warrants that the above-noted recitals are true, complete and correct in all material respects.

## 3. PLEDGE AND GRANT OF SECURITY INTEREST

As collateral security for the prompt and complete payment and performance when due of the Borrower's Obligations, the Borrower does hereby mortgage, pledge, charge, assign, transfer and hypothecate to and in favour of the Lender and grants to the Lender a continuing first, fixed and specific security interest, hypothec, mortgage, pledge and charge, in all of the Borrower's right, title and interest, whether now existing or hereafter arising, in and to all of the following (collectively the **"Pledged Collateral"**):

- (a) the Deposit Collateral;

- (b) all present and after acquired accretions to the foregoing, replacements, substitutions therefor, rollovers thereof, interest and income thereon and rights and claims in respect thereof (including all rights and claims in respect of the Designated Account) or evidenced thereby; and
- (c) all direct and indirect proceeds of the foregoing.

The parties acknowledge that: (a) value has been given; (b) the Borrower has rights in the Pledged Collateral existing on the date hereof and the power to transfer rights in the Pledged Collateral to the Lender; (c) the parties have not agreed to postpone the time for attachment of the security interest created hereby; and (d) the security interest created in this Agreement shall immediately attach to all Pledged Collateral hereafter acquired as soon as the Borrower acquires rights thereto or therein.

#### **4. WITHDRAWAL AND DISTRIBUTION RIGHTS**

The Borrower shall not be entitled to withdraw any of the Pledged Collateral from the Designated, without the prior consent of the Lender and to the extent any Pledged Collateral is received by the Borrower without the prior consent of the Lender, it shall be held in trust and paid to the Lender forthwith after receipt of same.

#### **5. DELIVERY AND REGISTRATION OF PLEDGED SECURITIES**

- (a) The Borrower shall from time to time deliver to the Lender all of the notes, certificates, and other documents evidencing or representing the Pledged Collateral, and if registered in the name of the Borrower, endorsed in blank by the Borrower, together with a transfer power in the form required by the Lender, duly executed in blank.
- (b) Any additional amounts deposited into the Designated Account by the Borrower shall become part of the Pledged Collateral and shall become and be subject to the provisions of this Agreement.

#### **6. REPRESENTATIONS AND WARRANTIES**

The Borrower hereby represents and warrants to the Lender as follows:

- (a) the Borrower is duly created, existing and in good standing under the laws of its jurisdiction of creation and has the capacity and authority to: (i) grant a Security Interest over the Pledged Collateral, in favour of the Lender, as security for the Borrower's Obligations, and (ii) observe and perform all its obligations under this Agreement;
- (b) the execution and delivery of this Agreement and the performance by the Borrower of its obligations hereunder have been duly authorized by all necessary action;

- 4 -

- (c) this Agreement has been duly executed and delivered the Borrower and constitutes its legal, valid and binding obligation, enforceable against it, in accordance with its terms, subject only to the discretion that a court may exercise in granting equitable remedies and any limitation under applicable laws relating to bankruptcy, insolvency, moratorium, fraudulent preference, reorganization or other applicable laws affecting creditors' rights generally from time to time in effect;
- (d) the execution and delivery by the Borrower of this Agreement and the performance by the Borrower of its obligations hereunder does not and will not conflict with or result in a breach of any of the terms, conditions or provisions of:
  - (i) its constating documents;
  - (ii) any applicable law;
  - (iii) any shareholder agreement applicable to shareholders of the Borrower;
  - (iv) any contractual restriction binding on or affecting the Borrower; or
  - (v) any writ, judgment, injunction, determination or award which is binding on it;
- (e) the Borrower is the legal and beneficial owner of the Pledged Collateral which is free and clear of any and all Security Interests and it has full right, power and authority to pledge and to create a Security Interest in and to the Pledged Collateral; and
- (f) this Agreement creates a good and valid security interest, hypothec, pledge, mortgage and charge in the Pledged Collateral, which security interest, hypothec, pledge, mortgage and charge is a perfected and first priority security interest, securing the payment of the Borrower's Obligations.

## 7. COVENANTS

The Borrower hereby covenants and agrees with the Lender that:

- (a) the chief executive office of the Borrower is located at 2308 Portland St. SE, Calgary, AB T2G 4M6;
- (b) prior to or concurrently with the execution of this Agreement, it shall cause to be filed such financing statements and other documents in such offices as the Lender may request to perfect the Security Interest granted herein;
- (c) all accretions to and replacements, substitutions and rollovers of the Pledged Collateral and interest and income thereon shall be held by the Lender subject to the same terms and conditions and with the same powers and authorities, as are

hereby declared and conferred. The Lender shall not be required to surrender any of the Pledged Collateral until all of the Borrower's Obligations have been fully and finally paid and satisfied; and

- (d) the Pledged Collateral will be invested only as overnight funds, unless the Lender and the Borrower agree otherwise.

## **8. CONTINUED PERFECTION OF SECURITY INTEREST**

The Borrower agrees that from time to time, at the reasonable expense of the Borrower, the Borrower will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary, or that the Lender may reasonably request, in order to perfect and protect the Security Interest granted or purported to be granted hereby or to enable the Lender to exercise and enforce its rights and remedies hereunder with respect to any Pledged Collateral.

The Borrower hereby further authorizes the Lender to file at the Borrower's cost and expense one or more financing or financing change statements, and amendments thereto, relative to all or any part of the Pledged Collateral without the signature of the Borrower where permitted by applicable law.

## **9. EVENT OF DEFAULT AND REMEDIES**

- (a) Any failure by the Borrower to pay or perform the Borrower's Obligations when due shall constitute an "Event of Default" hereunder.
- (b) During the period during which an Event of Default shall have occurred and is continuing:
  - (i) the Lender shall have all of the rights and remedies with respect to the Pledged Collateral of a secured party under the PPSA (whether or not the PPSA is in effect in the jurisdiction where the rights and remedies are asserted) and such additional rights and remedies to which a secured party is entitled under the laws in effect in any jurisdiction where any rights and remedies hereunder may be asserted;
  - (ii) the Lender in its discretion may, set off any Pledged Collateral against the Borrower's Obligations, combine accounts, use the Pledged Collateral to pay the outstanding Borrower's Obligations and exercise all other rights attaching to the Pledged Collateral, all in such manner and at such time or times as may seem advisable to the Lender; and
  - (iii) sell the Pledged Collateral, or any of it, by public or private sale, upon such terms (including as to time and method of payment and security or otherwise) as the Lender may decide.

The Lender may exercise any of its foregoing rights and remedies independently or in combination and at any time and from time to time. The exercise of any particular right or remedy shall not preclude the further exercise of that or any other right or remedy.

- (c) The records of the Lender as to the occurrence and continuation of an Event of Default shall be conclusive evidence of such Event of Default, absent manifest error.
- (d) The Lender shall not be bound under any circumstances to realize upon any Pledged Collateral or allow any Pledged Collateral to be sold, and shall not be responsible for any loss occasioned by any sale or by the retention of or refusal to sell Pledged Collateral; nor shall the Lender be obliged to collect or see to the payment of interest or distributions thereon.
- (e) The proceeds of any sale or disposition of the Pledged Collateral by the Lender may be applied upon such part of the Guaranteed Obligations, direct or indirect, as the Lender may see fit.
- (f) During the period during which an Event of Default shall have occurred and is continuing, the Lender may transfer all or any of the Pledged Collateral and may fill in all blanks in any transfers of certificates or any power of attorney or other documents delivered, and the Lender may delegate its powers and any subdelegate of the powers hereby given may exercise the same in the name and on behalf of the Borrower.
- (g) At the request of the Lender, the Borrower will, at its own expense, execute all such transfers and documents as may be reasonably required, as may be expedient for vesting in the Lender, or such person or nominee as it may appoint, all and every part, or any part, of the Pledged Collateral.
- (h) The Borrower shall pay to the Lender all reasonable costs, charges and expenses incurred by the Lender with reference to the Pledged Collateral or the realization thereof (including all reasonable legal costs on a full indemnity basis and also including expenses of taking possession of, protecting and realizing upon any property comprised in the Pledged Collateral). All such costs, charges and expenses shall be added to the Borrower's Obligations and shall be a first charge and security interest upon the monies received.

## **10. POWER OF ATTORNEY**

The Borrower hereby appoints the Lender as attorney of the Borrower, with full authority in the place and stead of the Borrower and in the name of the Borrower or otherwise, from time to time in the Lender's discretion to take any and all actions authorized to be taken by the Lender under this Agreement or by applicable law at any time that the Lender, acting reasonably, may deem necessary or advisable to accomplish the purposes of this Agreement, including, without limitation, to ask for, collect, recover, compound, receive and give acquittance and receipts for moneys due and to become due under or in connection with the Pledged Collateral, to receive, endorse, and collect any drafts or other instruments or documents in connection therewith, and to file any claims or take any action or institute any proceedings which the Lender may deem to be necessary or desirable for the collection thereof or to enforce compliance with the terms and conditions of this Agreement. Such appointment of the Lender as the Borrower's attorney is coupled with an interest and is irrevocable.

## **11. NON-MERGER**

This Agreement shall be a continuing agreement and it and the Pledged Collateral are in addition to and not in substitution for any other security or collateral held by the Lender and the taking of a judgment or judgments under any of the covenants herein contained shall not operate as a merger of such covenants or suspend the fulfillment of, or affect the rights, remedies and powers of the Lender in respect of the Borrower's Obligations or any Pledged Collateral held by the Lender hereunder.

## **12. DEALING WITH THE BORROWER AND THE PLEDGED COLLATERAL**

The Lender may realize on the Pledged Collateral in such manner as it considers desirable, and it may grant time, renewals, extensions, indulgences, releases and discharges to, may take securities from and give the same and any and all existing Pledged Collateral up to, may abstain from taking securities from, or from perfecting securities of, may accept compositions from and may otherwise deal with the Borrower and the Pledged Collateral as the Lender may see fit, without prejudice to the rights of the Lender set out herein to hold, deal with and realize on the Pledged Collateral.

## **13. DEGREE OF CARE**

The Lender shall have no duty with respect to the Pledged Collateral other than to use reasonable care in the safe custody of the Pledged Collateral in its possession. The Lender shall not be liable for any loss or depreciation in the value of the Pledged Collateral.

## **14. GOVERNING LAWS**

This Agreement shall be subject to the laws of the Province of Ontario and the federal laws of Canada applicable therein and shall be construed and enforced in accordance with such laws. The Borrower hereby accepts and irrevocably submits to the non-exclusive jurisdiction of the



courts of Ontario and agrees to be bound by any judgment thereof, without prejudice to the rights of the Lender to take proceedings in any other jurisdictions.

#### **15. BINDING EFFECT**

This Agreement shall be binding upon the Borrower and its successors and permitted assigns and shall enure to the benefit of the Lender and their respective successors and assigns. The Borrower shall not be permitted to assign any of its obligations hereunder without the prior written consent of the Lender. "Successors" shall include any corporation or company resulting from the amalgamation of one or more corporations or companies.

#### **16. AMENDMENTS; ETC.**

No amendment or waiver of any provision of this Agreement nor consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be in writing and signed by the Borrower and the Lender, and then such waiver or consent shall be effective only in the specific instance for the specific purpose for which given.

#### **17. ADDRESSES FOR NOTICES**

- (a) All notices required or permitted hereunder shall be in writing and provided by delivery or telecopy or other similar form of telecommunication to the parties at the addresses as follows:

To the Borrower:

2308 Portland St. SE  
Calgary, AB T2G 4M6

Attention: President & CEO  
Telecopier: 1-888-345-4723

To the Lender:

Bank of Montreal  
Corporate Finance Division  
11th Floor, 1 First Canadian Place  
100 King Street West, Toronto, Ontario M5X 1A1

Attention: Director  
Telecopier: (416) 360-7168

- (b) Any notice, if personally delivered, shall be deemed to have been given and received on the day on which it was so delivered, and if not a Business Day then on the Business Day next following the day of delivery. Any notice, if sent by

telecopier or other similar form of telecommunication, shall be deemed to have been given and received on the day it is sent provided such day is a Business Day and it is received prior to 5:00 p.m. (recipient's time), otherwise it shall be deemed to have been given and received on the next Business Day following the date it was sent, provided in all cases that the sender receives a confirmation report from the sending machine indicating that the telecommunication was sent. Any party may at any time give notice in writing to the other party of any change of address of the party giving such notice and from and after giving such notice the address specified in such notice shall be deemed to be the address of such party for the giving of notices hereunder. Until such notice of change of address is received, notice sent to the last address stipulated as provided, herein shall be deemed to be effective, notwithstanding a subsequent change of address.

#### **18. SEVERABILITY**

Any provision hereof that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and without affecting the validity or enforceability of any provision in any other jurisdiction.

#### **19. HEADINGS**

The headings herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof.

#### **20. ELECTRONIC EXECUTION**

The delivery of a facsimile copy or pdf formatted copy of an executed copy of this Agreement shall be deemed to be valid execution and delivery of this Agreement, but the Borrower shall deliver an original copy of this Agreement to the Lender as soon as possible after delivering the facsimile or pdf formatted copy.

**[SIGNATURE PAGE TO FOLLOW]**

- 10 -

IN WITNESS WHEREOF the Borrower has set its hand and seal as of the day and year first above written,

GRAF CANADA LTD.

Per:



Name: Gayle Estabrooks

Title: President & CEO

Per:



Name: Gerard McGrath

Title: Director





**Pledge of Instrument and  
Assignment of Proceeds**

\* Insert name(s) of  
instrument(s) other  
than the  
undersigned  
(pledger). Leave  
blank if the borrower  
and the undersigned  
are the same.

\*\* Insert the name  
of the instrument  
being lodged as  
security, e.g. Term  
Deposit Receipt.

In consideration of financial assistance currently extended or to be extended and/or advances currently made and/or which may at any time hereafter be made by Bank of Montréal (the "the Bank")

to: GRAF CANADA LTD.

and/or the undersigned (hereinafter referred to collectively as the "Borrower"), the undersigned herewith hands the Bank at its branch located at 100 KING STREET WEST, TORONTO, ON

\*\* VARIABLE RATE GIC

No. 0002-9680-484

(the "Receipt") in the principal amount of \$ 1,000,000.00 and agrees that the proceeds of the investment evidenced thereby (the "Investment") and of all renewals and replacements thereof and all accretions thereto and all interest or income therefrom shall be held by the Bank as general and continuing additional security and as a pledge to secure any advances currently made or which at any time hereafter may be made to be Borrower and to cover any indebtedness which is now or may at any time hereafter be due by the Borrower to the Bank and as a general continuing additional security for the fulfilment of all obligations present or future, direct or indirect, absolute or contingent, matured or not of the Borrower to the Bank (all of which indebtedness and obligations are hereinafter called the "Indebtedness"). For the same consideration and as a general continuing additional security for the Indebtedness, the undersigned hereby assigns, transfers and makes over to the Bank all of its right, title, claim and interest in and to the moneys (comprising principal and interest) otherwise due and payable or to become due and payable to the undersigned to the terms of the Investment and under any further receipt or similar instrument evidencing the re-investment of the whole or part of the said moneys.

Until payment in full of the Indebtedness, the undersigned hereby irrevocably authorizes and directs the Bank for and on behalf of the undersigned upon maturity of the Investment to receive the moneys in principal and interest payable thereunder and in its sole discretion to re-invest all or part of such moneys in one or more instruments of the same or a similar nature on such terms as are in effect at such maturity ("Re-Investment") and to receive a receipt therefor (a "Renewal Receipt") and thereafter from time to time, upon maturity of any Re-Investment to receive any and all moneys payable thereunder and in its sole discretion to re-invest the same in whole or in part as aforesaid and to receive a Renewal Receipt therefor.

The undersigned hereby confirms and agrees that each such Renewal Receipt shall be deemed to have been handed to the Bank to secure the Indebtedness as aforesaid, and that any and all moneys payable under each Re-investment shall be deemed to be the same moneys payable under the Investment or part thereof and the undersigned hereby confirms and agrees that such moneys are hereby assigned, transferred and made over to the Bank as additional security for the Indebtedness.

The undersigned further agrees that on default being made in paying the Indebtedness or any part thereof, the Bank may in its sole discretion without notice receive the moneys in principal and interest or any part thereof payable under the terms of the Investment or any Re-Investment on or prior to maturity and apply all or any portion of such moneys against payment of the Indebtedness or any part thereof.

The undersigned hereby irrevocably authorizes and mandates the Bank or any manager or acting manager for the time being at the aforementioned branch of the Bank and each of them to do all such acts and to sign, execute and endorse any instrument or other writing for, on behalf and in the name of the undersigned for any to the aforesaid purposes.

The undersigned covenants not to substitute or modify any of the undersigned's rights under the Investment without the written consent of the Bank, and any substitution or modification not consented to may at the option of the Bank be treated as an act of default hereunder and under any other agreement between the undersigned and the Bank.

The undersigned further confirms and agrees that the taking of a judgement or judgements or any other action or dealings whatsoever by the Bank with respect to any security hereby given or given hereafter by the undersigned, shall not operate as a merger of any other security given to the Bank, or of any Indebtedness of the Borrower to the Bank or any part thereof, or in any way suspend payment or affect or

\*\*\*Clauses are not applicable if the securities are pledged only against advances to the undersigned.

prejudice the rights, remedies and powers, legal or equitable which the Bank may have in connection with such security of Indebtedness of the Borrower and a foreclosure, surrender, cancellation, variation or any other dealings with or modification of any other security for the Indebtedness shall not release or affect the liability of the Borrower for the entire Indebtedness to the Bank or release or effect any other security held by the Bank. The undersigned renounces to claim against or set up against the Bank any right which the undersigned may have to be subrogated in any rights, hypothecs, privileges and other security held from time to time by the said Bank.

\*\*\* It is further agreed that the Bank shall not be obliged to exhaust its recourse against the Borrower or any other party or parties or against any other security or securities it may hold before realizing on or otherwise dealing with the securities pledged hereunder to the Bank in such manner as the Bank considers desirable, and the Bank may grant time, renewals, extensions, indulgences, releases and discharges to, may take securities from and give the same and any and all existing securities up to, may abstain from taking securities from, or from perfecting securities of, may accept compositions from, and may otherwise deal with the Borrower and all other persons (including the undersigned or any one of them) and securities, (including part of the securities hereby pledged), as the Bank may see fit, without prejudice to the right of the Bank to hold, deal with and realize on the securities pledged hereunder to the Bank, in any manner which the Bank considers desirable.

\*\*\* All debts and liabilities present and future of the Borrower to the Undersigned or any of them (if more than one) are hereby postponed to the debts and liabilities of the Borrower to the Bank and all moneys received thereon by the Undersigned or any of them (if more than one) or by his or their assigns, shall be received as trustee(s) for the Bank as shall be paid over to the Bank.

The records of the Bank shall constitute prima facie evidence of the principal amount, interest rate and maturity date of the Investment, Receipt and each Re-Investment and Renewal Receipt and of the amount of the Indebtedness at any time, of the Borrower being in default and of any demand having been made.

The undersigned waives the right to receive any financing or financing change statement registered by the Bank and any confirmation of registration or verification statement issued where permitted by law.

The undersigned acknowledges receipt of a copy of this Agreement

DATED this

27<sup>th</sup>

day of

December

(month)

2015

(year)

Signature



Name please print

GRAF CANADA LTD.

Address

2308 PORTLAND STREET S.E., CALGARY, ALBERTA, T2G4M6

Tab F

- 1 -

Exhibit "F" to the Affidavit of Hugh Devlin, sworn  
before me this 20<sup>th</sup> day of April, 2016.

A handwritten signature in blue ink, appearing to read "Paula Rottel", is written over a horizontal line.

Commission for Taking Affidavits, etc.



Search ID#: Z07851518

**Transmitting Party**WEST-END REGISTRATIONS LICENSING & SEARCHES LTD.  
(P158)10011 170 STREET  
EDMONTON, AB T5P 4R5Party Code: 50076967  
Phone #: 780 483 8211  
Reference #: 01290316-EEC806D9 29

Search ID #: Z07851518

Date of Search: 2016-Apr-19

Time of Search: 12:08:22

**Business Debtor Search For:**

GRAF CANADA LTD

Both Exact and Inexact Result(s) Found

**NOTE:**

A complete Search may result in a Report of Exact and Inexact Matches.  
Be sure to read the reports carefully.



Search ID#: Z07851518

**Business Debtor Search For:**

GRAF CANADA LTD

Search ID #: Z07851518

Date of Search: 2016-Apr-19

Time of Search: 12:08:22

Registration Number: 06102309058

Registration Type: SECURITY AGREEMENT

Registration Date: 2006-Oct-23

Registration Status: Current

Expiry Date: 2016-Oct-23 23:59:59

Exact Match on: Debtor

No: 1

**Amendments to Registration**

11100519301

Renewal

2011-Oct-05

**Debtor(s)****Block****Status**

1 GRAF CANADA LTD.  
2308 PORTLAND STREET SE  
CALGARY, AB T2G 4M6

Current

**Secured Party / Parties****Block****Status**

1 BANK OF MONTREAL  
11TH FLOOR, 100 KING STREET WEST  
TORONTO, ON M5Y 1A1

Current

**Collateral: General****Block****Description****Status**

1 ALL PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY.

Current

**Particulars****Block****Additional Information****Status**

1

Current

**Search ID#: Z07851518**

ADDITIONAL INFORMATION: COMPLETE ADDRESS OF SECURED PARTY: BANK  
ON MONTREAL 11TH FLOOR, FIRST CANADIAN PLACE 100 KING STREET  
WEST TORONTO, ON M5Y 1A1

Search ID#: Z07851518

**Business Debtor Search For:**

GRAF CANADA LTD

Search ID #: Z07851518

Date of Search: 2016-Apr-19

Time of Search: 12:08:22

Registration Number: 06102309140

Registration Type: LAND CHARGE

Registration Date: 2006-Oct-23

Registration Status: Current

Registration Term: Infinity

Exact Match on: Debtor

No: 1

**Debtor(s)****Block****Status**

1 GRAF CANADA LTD.  
2308 PORTLAND STREET SE  
CALGARY, AB T2G 4M6

Current

**Secured Party / Parties****Block****Status**

1 BANK OF MONTREAL  
11TH FLOOR, 100 KING STREET WEST  
TORONTO, ON M5Y 1A1

Current

**Particulars****Block****Additional Information****Status**

1 ADDITIONAL INFORMATION: COMPLETE ADDRESS OF SECURED PARTY: BANK  
OF MONTREAL 11TH FLOOR, FIRST CANADIAN PLACE 100 KING STREET  
WEST TORONTO, ON M5Y 1A1

Current

Search ID#: Z07851518

**Business Debtor Search For:**

GRAF CANADA LTD

Search ID #: Z07851518

Date of Search: 2016-Apr-19

Time of Search: 12:08:22

Registration Number: 12060702272

Registration Type: SECURITY AGREEMENT

Registration Date: 2012-Jun-07

Registration Status: Current

Expiry Date: 2016-Jun-07 23:59:59

Exact Match on: Debtor

No: 1

**Debtor(s)****Block****Status**

1 GRAF CANADA LTD.  
2308 PORTLAND STREET SE  
CALGARY, AB T2G4M6

Current

**Secured Party / Parties****Block****Status**

1 NATIONAL LEASING GROUP INC.  
1525 Buffalo Place  
WINNIPEG, MB R3T 1L9

Current

Phone #: 204 954 9000

Fax #: 204 954 9099

**Collateral: General****Block****Description****Status**

1 ALL TELEPHONE SYSTEMS & VOIP OF EVERY NATURE OR KIND DESCRIBED IN  
LEASE NUMBER 2583305 BETWEEN THE SECURED PARTY, AS LESSOR AND THE  
DEBTOR AS LESSEE, AS AMENDED FROM TIME TO TIME, TOGETHER WITH ALL  
ATTACHMENTS, ACCESSORIES AND SUBSTITUTIONS.

Current

Search ID#: Z07851518

**Business Debtor Search For:**

GRAF CANADA LTD

Search ID #: Z07851518

Date of Search: 2016-Apr-19

Time of Search: 12:08:22

Registration Number: 13120605476

Registration Type: SECURITY AGREEMENT

Registration Date: 2013-Dec-06

Registration Status: Current

Expiry Date: 2018-Dec-06 23:59:59

Exact Match on: Debtor

No: 1

Inexact Match on: Debtor

No: 2

**Debtor(s)****Block****Status**

1 GRAF CANADA LTD.  
2308 PORTLAND ST SE  
CALGARY, AB T2G4M6

Current

**Block****Status**

2 GRAF CANADA  
2308 PORTLAND ST SE  
CALGARY, AB T2G4M6

Current

**Secured Party / Parties****Block****Status**

1 NATIONAL LEASING GROUP INC.  
1525 Buffalo Place  
WINNIPEG, MB R3T 1L9

Current

Phone #: 204 954 9000

Fax #: 204 954 9099

**Collateral: General****Block****Description****Status**

Search ID#: Z07851518

1	ALL INDUSTRIAL AND MANUFACTURING EQUIPMENT-UNDERTRIMMER ZIGZAG MACHINE, AK LIFTER, THREAD TRIMMING, BACKTACK OF EVERY NATURE OR KIND DESCRIBED IN LEASE NUMBER 2643937 BETWEEN 7964927 CANADA INC. DBA LEASE PLUS FINANCIAL, AS ORIGINAL LESSOR AND THE DEBTOR, AS LESSEE, WHICH LEASE WAS ASSIGNED BY THE ORIGINAL LESSOR TO THE SECURED PARTY, AS AMENDED FROM TIME TO TIME, TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES AND SUBSTITUTIONS.	Current
---	--	---------

**Particulars**

<b><u>Block</u></b>	<b><u>Additional Information</u></b>	<b><u>Status</u></b>
1	Purchase Money Security Interest.	Current

Search ID#: Z07851518

**Business Debtor Search For:**

GRAF CANADA LTD

Search ID #: Z07851518

Date of Search: 2016-Apr-19

Time of Search: 12:08:22

Registration Number: 15122406672

Registration Type: SECURITY AGREEMENT

Registration Date: 2015-Dec-24

Registration Status: Current

Expiry Date: 2020-Dec-24 23:59:59

Exact Match on: Debtor

No: 1

**Debtor(s)****Block****Status**

1 GRAF CANADA LTD.  
2308 PORTLAND STREET SE  
CALGARY, AB T2G 4M6

Current

**Secured Party / Parties****Block****Status**

1 BANK OF MONTREAL  
FIRST CANADIAN PLACE, 7TH FLOOR  
TORONTO, ON M5X 1A1

Current

**Collateral: General****Block****Description****Status**

1 ALL PROPERTY PLEDGED BY THE DEBTOR TO THE SECURED PARTY PURSUANT TO A DEPOSIT PLEDGE AGREEMENT BETWEEN THE DEBTOR AND THE SECURED PARTY, INCLUDING BUT NOT LIMITED TO THE GIC 0002-9680-484. PROCEEDS: ACCOUNTS, CHATTEL PAPER, MONEY, INTANGIBLES, GOODS, DOCUMENTS OF TITLE, INVENTORY, INSTRUMENTS AND SECURITIES (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INSURANCE PROCEEDS.

Current

Result Complete



RUN NUMBER : 110  
RUN DATE : 2016/04/19  
ID : 20160419151707.96

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 1  
( 10000)

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE CENTRAL OFFICE  
OF THE PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM IN RESPECT OF THE FOLLOWING:

TYPE OF SEARCH : BUSINESS DEBTOR

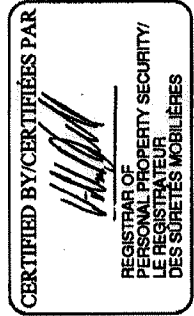
SEARCH CONDUCTED ON : GRAF CANADA LTD

FILE CURRENCY : 18APR 2016

ENQUIRY NUMBER 20160419151707.96 CONTAINS 3 PAGE(S), 1 FAMILY(IES).

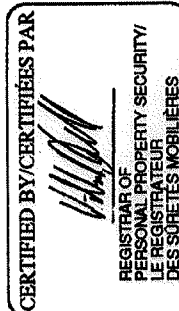
THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS WHICH SET OUT A BUSINESS DEBTOR NAME  
WHICH IS SIMILAR TO THE NAME IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE OTHER  
SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

ESC REF: 3395236  
ESC CORPORATE SERVICES LTD.  
445 KING STREET WEST, SUITE 400  
TORONTO ON M5V 1K4



CONTINUED... 2





3

REPORT : PSSR060  
PAGE : 2  
( 10001)

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

RUN NUMBER : 110  
RUN DATE : 2016/04/19  
ID : 20160419151707.96

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : GRAF CANADA LTD  
FILE CURRENCY : 18APR 2016

FORM 1C FINANCING STATEMENT / STATEMENT FOR FILING

FILE NUMBER  
712902114

00 CATION PAGE TOTAL MOTOR VEHICLE REGISTRATION REGISTERED VEHICLE-VEHICLE  
FILING NO. OF PAGES SCHEDULE NUMBER UNDER FILING 5

001 1 20151224 1059 6083 8731 P PPSA

01

02

03

04

05

06

07

08

09

10

11

12

13

14

15

16

17

01

02

03

04

05

06

07

08

09

10

11

12

13

14

15

16

17

01

02

03

04

05

06

07

08

09

10

11

12

13

14

15

16

17

01

02

03

04

05

06

07

08

09

10

11

12

13

14

15

16

17

01

02

03

04

05

06

07

08

09

10

11

12

13

14

15

16

17

01

02

03

04

05

06

07

08

09

10

11

12

13

14

15

16

17

01

02

03

04

05

06

07

08

09

10

11

12

13

14

15

16

17

01

02

03

04

05

06

07

08

09

10

11

12

13

14

15

16

17

01

02

03

04

05

06

07

08

09

10

11

12

13

14

15

16

17

01

02

03

04

05

06

07

08

09

10

11

12

13

14

15

16

17

01

02

03

04

05

06

07

08

09

10

11

12

13

14

15

16

17

01

02

03

04

05

06

07

08

09

10

11

12

13

14

15

16

17

01

02

03

04

05

06

07

08

09

10

11

12

13

14

15

16

17

01

02

03

04

05

06

07

08

09

10

11

12

13

14

15

16

17

01

02

03

04

05

06

07

08

09

10

11

12

13

14

15

16

17

01

02

03

04

05

06

07

08

09

10

11

12

13

14

15

16

17

01

02

03

04

05

06

07

08

09

10

11

12

13

14

15

16

17

01

02

03

04

05

06

07

08

09

10

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 3  
( 10002 )

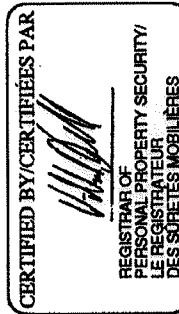
RUN NUMBER : 110  
RUN DATE : 2016/04/19  
ID : 20160419151707.96

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : GRAF CANADA LTD  
FILE CURRENCY : 18APR 2016

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

FILE NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER
712902114	20151224 1059 6083 8731		

1 REGISTRATION(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.



Tab G

- 1 -

Exhibit "G" to the Affidavit of Hugh Devlin, sworn  
before me this 20<sup>th</sup> day of April, 2016.



---

Commission for Taking Affidavits, etc.



**Application for Credit and Promise to Give Bills of Lading, Warehouse Receipts, or Security under Section 427 of the Bank Act**

To the  
Bank of Montreal

The Bank is hereby requested by the undersigned to grant and continue certain credit facilities (whether by loans, the acceptance of our bills of exchange, or otherwise) and to make loans or advances to the undersigned thereunder on the security of all property of the kind(s) hereinafter described of which the undersigned is now or may thereafter become the owner or in respect of which the undersigned does now have or hereafter may acquire rights, to wit

All present and future inventory, including without limitation, all raw materials, goods in process, work in progress, materials used or consumed in business, finished goods and other goods, wares and merchandise manufactured or produced by the undersigned or procured for such manufacture or production and goods, wares and merchandise used in or procured for the packing of such goods, wares and merchandise.

and/or on the security of warehouse receipts and/or bills of lading covering such property

And the undersigned promise(s) and agree(s) to give the Bank security for all loans and advances by the Bank to the undersigned pursuant to this application for credit and promise to give security and any application(s) for credit and promise(s) to give security supplemental hereto, by way of assignment under Section 427 of the Bank Act covering all the property aforesaid which is now or may hereafter be in the place or places hereinafter designated, to wit

2308 Portland Street S.E., Calgary, Alberta

or in transit thereto or therefrom or in any other place or places in Canada in which any of the said property may be located

The undersigned promise(s) and agree(s) to give the Bank from time to time and as often as requested by the Bank warehouse receipts and/or bills of lading covering all the property aforesaid or any part thereof which is now or may hereafter be covered by warehouse receipts or bills of lading, as security for all the said loans and advances

And the undersigned will pay the Bank all costs, charges and expenses which the Bank may incur in enforcing or obtaining payment of the sums of money due to the Bank from the undersigned or in attempting so to do

The undersigned hereby appoint(s) the person for the time being acting as manager of the above-mentioned branch of the Bank the attorney of the undersigned, on behalf of the undersigned to give from time to time to the Bank any and all security mentioned above and to sign or endorse and deliver any and all instruments and documents in connection therewith

The Bank may from time to time take from the undersigned notes representing the said loans and advances or any part thereof; and any notes so taken shall not extinguish or pay the indebtedness created by such loans and advances but shall represent the same only

No security acquired by the Bank shall be merged in any subsequent security or be taken to be substituted for any security previously acquired

- 2 -

It is the express wish of the Parties that this agreement and any related documents be drawn up and executed in English. Les parties conviennent que la présente convention et tous les documents s'y rattachant soient rédigés et signés en anglais

DATED at Calgary, Alberta the 31 day of October, 2015

GRAF CANADA LTD.

By: [Signature]  
Name: James Dougherty  
Title: VP Finance

By: [Signature]  
Name: Gayle Estabrooks  
Title: CEO and President

© Registered trade-marks of Bank of Montreal

17985669\_1|NATDOCS



## Agreement as to Loans and Advances and Security therefor

To the  
BANK OF MONTREAL:

In consideration of the loan(s) or advance(s) being made and/or to be made hereafter by the BANK OF MONTREAL (hereinafter called "the Bank") to the undersigned (hereinafter called "the Customer") the Customer agrees with the Bank as follows:

1. All security now or at any time hereafter held by the Bank for the payment of any debt or liability of the Customer (the said security being hereinafter called "the security"), including, without limiting the generality of the foregoing, security by way of warehouse receipt or bill of lading or under Section 427 of the Bank Act, together with all property covered by or comprised in the security (the said property being hereinafter called "the property"), and all proceeds of the security and of the property, shall be continuing collateral security for the payment of such debt or liability and also for the payment of interest thereon and of all costs, charges and expenses of or incurred by the Bank in connection therewith, including solicitor and his own client legal costs, whether in protecting, preserving, possessing, preparing for disposition, disposing of, realizing or collecting the security or the property or attempting so to do or otherwise, and interest thereon at the rate and calculated in the manner agreed upon by the Customer and the Bank, all of which the Customer agrees to pay to the Bank.
2. The Customer shall keep the property insured to its full insurable value against loss or damage by fire, and, if requested by the Bank, against loss or damage from any other cause, with insurers approved by the Bank, and shall assign to the Bank the policies evidencing such insurance or all claims thereunder and/or have the loss made payable to the Bank as the Bank may require and shall deliver the policies to the Bank, and in the event of failure so to do the Bank may but shall not be bound to effect such insurance on the property as it sees fit and the Customer will on demand repay to the Bank the amount of any premiums paid by it with interest thereon at the rate and calculated in the manner agreed upon by the Customer and the Bank.
3. If the Bank surrenders to the Customer the security or the property or any part of either of them, the Customer shall receive the same in trust for and on behalf of the Bank and from time to time shall deal therewith as the Bank may direct and, at the request of the Bank, shall give to the Bank security on the property so surrendered, or covered by the security so surrendered, to the satisfaction of the Bank.
4. Until default by the Customer in payment of all or any part of the indebtedness and liability of the Customer to the Bank, or until notice by the Bank to the Customer to cease so doing, the Customer may sell such property from time to time in the ordinary course of business and remove the same for the purpose of delivery to purchasers thereof. The proceeds of all sales by the Customer of the property or any part thereof, including, without limiting the generality of the foregoing, cash, debts arising from such sales or otherwise, evidences of title, instruments, documents and securities, which the Customer may receive or be entitled to receive in respect thereof, are hereby assigned to the Bank and shall be paid or transferred to the Bank forthwith, and until so paid or transferred shall be held by the Customer in trust for the Bank. Execution by the Customer and acceptance by the Bank of an assignment of book debts or any additional assignment of any of such proceeds shall be deemed to be in furtherance hereof and not an acknowledgement by the Bank of any right or title on the part of the Customer to such book debts or proceeds.
5. The Customer shall at all times duly and seasonably pay and discharge all claims whatsoever in any way secured by or constituting a charge upon the property or any part thereof and particularly, but without limiting the generality of the foregoing, all wages, salaries and other remuneration of all employees employed by the Customer in connection with the business or farm of the



Customer in respect of which any property covered by the security is held or acquired by the Customer, and shall from time to time at the request of the Bank exhibit to the Bank evidence of such payment and discharge and obtain and deliver to the Bank such waivers or releases as the Bank may deem necessary to secure to the Bank the priority of its rights in the property.

6. The Customer shall from time to time on demand and to the satisfaction of the Bank deliver to the Bank additional security, and in the event of failure by the Customer so to do or to make due payment to the Bank of any debt or liability or part thereof or to observe any provision of this agreement, the Bank may in its discretion cease or refrain from making loans or advances to the Customer whether under any credit extended by the Bank or otherwise, and all debts and liabilities of the Customer to the Bank shall at the option of the Bank be payable forthwith and without any demand, and the Bank is hereby authorized from time to time to sell at public or private sale or otherwise realize upon the security or any part thereof and all or any of the property whenever and wherever and for such price in money or other consideration and in such manner and upon such terms and conditions as the Bank deems best, the whole without advertisement or notice to the Customer or others and to deal with the proceeds as in this agreement provided or as otherwise agreed, without prejudice to its claim for any deficiency and free from any right of redemption on the part of the Customer which is hereby waived and released, the Customer expressly waiving all and every formality prescribed by custom or by law in relation to any such sale or other realization.

7. The Bank may from time to time, enter upon or into and occupy and use, enjoy and exercise free of charge and to the exclusion of all others, including the Customer, any and all premises and property (real and personal, immovable and movable) and rights, powers and privileges of or used, enjoyed or exercised by the Customer in connection with the property or any part thereof or in or upon which the same may be (not being the premises of a warehouseman or carrier) until the property shall be fully realized upon, and may from time to time appoint a receiver, receiver-manager or agent to act for the Customer, for whose acts the Customer alone shall be responsible, and the Customer shall have no power to revoke such appointment or determine such agency. Such receiver, receiver-manager or agent shall have and may exercise all the powers, rights and discretions granted to the Bank by this agreement and the Bank and any such receiver, receiver-manager or agent shall have the right from time to time in the name of the Customer to exercise any and all of the Customer's rights, powers and privileges of every kind and to do all acts and things which the Customer could do if acting, for the purpose of completing, selling, shipping or otherwise dealing with the property in such manner as the Bank may deem best for the purpose of realizing upon the security.

8. Any promissory note or bill of exchange received by the Bank together with any securities or documents attached thereto or received therewith shall be subject to the terms of this agreement and the Bank and holders for the time being of any such bill or note may at any time before or after its maturity and whether or not it has been dishonoured accept payment and deliver the securities or documents or accept partial payment from time to time and thereupon release part of the securities or of the property covered by the documents or any of them.

9. The Bank may from time to time apply

- (a) all payments which it receives,
- (b) the proceeds of sales by the Customer of the property or any part thereof, and
- (c) the proceeds of realization of any part of the security or of the property which are applicable generally to the debts and liabilities of the Customer to the Bank,

against, or as the Bank deems best, hold the same with all the powers, rights and discretions conferred on it by this agreement or otherwise, as continuing collateral security for the fulfilment of any or all obligations, present or future, direct or indirect, absolute or contingent, matured or not, of the Customer to the Bank whether arising from agreement or dealings between the Bank and the Customer or from any agreement or dealings with any third person by which the Bank may be or become in any manner whatsoever a creditor of the Customer or however otherwise arising and whether the Customer be bound

alone or with another or others and whether as principal or surety, and any such application by the Bank may, in whole or in part, be changed by the Bank from time to time as it deems best.

The proceeds of realization of any part of the security or of the property which are applicable only to part of the debts and liabilities of the Customer to the Bank shall first be applied to such part of the debts and liabilities, and any surplus remaining after payment of such part may from time to time be held or applied by the Bank for the purposes set out in and in accordance with the preceding paragraph of this Clause 9.

10. The Bank may release, compromise, settle and adjust any claim, dispute or difference which may arise in respect of the security or of the property or the proceeds of either of them and may grant extensions of time and indulgences. The Bank may use any Clearing Houses established by The Canadian Bankers' Association and in all dealings with the Customer's accounts and with instruments may act pursuant to the rules and regulations under which such Clearing Houses are operated.

11. The Customer shall from time to time execute, draw, endorse and deliver all such instruments and documents and do all such acts and things as the Bank may deem necessary or desirable for the purpose of perfecting the title of the Bank to the security of the property or the proceeds of either of them or of carrying into effect any or all of the provisions of this agreement or of securing the fulfilment of such obligations as aforesaid of the Customer to the Bank. The Customer hereby appoints the Bank and its Vice-Presidents, Inspectors, Managers and persons for the time being acting as managers of branches of the Bank where an account of the Customer may be kept and any person or persons from time to time named by the Bank for the purposes hereinafter mentioned, and any one of them acting alone, the Attorneys and Attorney of the Customer with full power of substitution from time to time for and in the name of the Customer to do whatsoever the said Attorneys or Attorney may deem expedient for the purpose of carrying into effect any or all of the provisions of this agreement, and this appointment being made in consideration of a loan or loans, advance or advances, by the Bank to the Customer shall be irrevocable and shall be of full force and effect whenever and so often as any loan or advance by the Bank to the Customer is unpaid or any such obligation as aforesaid to the Bank is unfulfilled and notwithstanding any occurrence or event which would otherwise terminate such agency. Every power, right and discretion vested by law in the Bank or conferred upon it by this agreement may be exercised on its behalf by the said officers or acting officers of the Bank or any person from time to time named by the Bank for such purpose, and any one of them acting alone.

12. The Bank shall not be responsible for any failure to exercise or enforce or for any delay in the exercise or enforcement of any powers, rights or discretions of the Bank, including the failure to take steps to preserve rights against other persons nor for any act, default or misconduct of any agent, officer, employee or servant of the Bank and the Bank shall be accountable only for such moneys as it shall actually receive. The Bank shall not be responsible for any loss or damage to the property while in the possession of the Bank, a receiver or a sheriff, whether due to the negligence or other default of any of them or otherwise, and specifically the Bank shall not be obligated to preserve, repair, process, or prepare for disposition any of the property.

13. Any notice to or demand upon the Customer shall be sufficiently given if despatched by post addressed to the Customer at the address of the Customer as shown by the books kept in relation to the account of the Customer at the branch of the Bank from which notice or demand is despatched and shall be deemed to have been received by the Customer at the time when in the ordinary course of post it would be expected to reach the said address.

14. The benefit of all rules of law or equity and compliance with any statutory provisions now or hereafter in force inconsistent with any of the provisions of this agreement are hereby waived by the Customer.

15. The provisions hereof shall be in addition to all other remedies of the Bank existing in law and to all rights under agreements heretofore given and no sale or delivery by the customer of the property or any part thereof shall prejudice or affect the rights however arising of the Bank in or with respect to property so sold or delivered, and this shall be a continuing agreement and all its provisions

shall extend to all loans and advances to the Customer by the Bank and all obligations of the Customer to the Bank at any time outstanding and to the security and the property as they may exist from time to time and all proceeds thereof; and every loan and advance heretofore, now or hereafter made shall be deemed to have been made upon the agreements herein contained.

16. This agreement shall be binding upon and enure to the benefit of the Customer and the Bank and the heirs, executors and administrators or successors and assigns, as the case may be, of each of them.

It is the express wish of the Parties that this agreement and any related documents be drawn up and executed in English. Les parties conviennent que la présente convention et tous les documents s'y rattachant soient rédigés et signés en anglais.

Dated at Calgary, Alberta, this 21 day of October, 2015.

GRAF CANADA LTD.

By: [Signature]  
 Name: Jared Dougherty  
 Title: VP Finance

By: [Signature]  
 Name: GAYLE ESTABROOKS  
 Title: CEO and President

® Registered trade-marks of Bank of Montreal

17984856\_1|NATDOCS



**Security under sec. 427(1) of the Bank Act.  
(Security on all property of specified kinds)**

FOR GOOD AND VALUABLE CONSIDERATION, the undersigned hereby assigns to the BANK OF MONTREAL (hereinafter called "the Bank") as continuing security for the payment of all loans and advances made or that may be made by the Bank to the undersigned from the date hereof pursuant to the application for credit and promise to give security made by the undersigned to the Bank and dated the date hereof, and any application(s) for credit and promise(s) to give security supplemental thereto made or that may be made by the undersigned to the Bank or renewals of such loans and advances or substitutions therefor and interest on such loans and advances and on any such renewals and substitutions, all property of the kind(s) hereinafter described of which the undersigned is now or may hereafter become the owner or in respect of which the undersigned does now have or hereafter may acquire rights, to wit, - (describe the property assigned)

All present and future inventory, including without limitation, all raw materials, goods in process, work in progress, materials used or consumed in business, finished goods and other goods, wares and merchandise manufactured or produced by the undersigned or procured for such manufacture or production and goods, wares and merchandise used in or procured for the packing of such goods, wares and merchandise.

and that is now or may hereafter be in the place or places hereinafter, designated, to wit, - (designate the place or places)

2308 Portland Street S.E., Calgary, Alberta

or in transit thereto or therefrom or in any other place or places in Canada in which any of the said property may be located.

This security is given under the provisions of section 427 of the Bank Act.

The property now owned by the undersigned or in respect of which the undersigned now has or may hereafter acquire rights and hereby assigned is free from any mortgage, lien or charge thereon, other than previous assignments, if any, to the Bank, and the undersigned warrants that the property that may hereafter be acquired by the undersigned and is hereby assigned shall be free from any mortgage, lien or charge thereon, other than previous assignments, if any, to the Bank.

It is the express wish of the Parties that this agreement and any related documents be drawn up and executed in English. *Les parties conviennent que la présente convention et tous les documents s'y rattachant soient rédigés et signés en anglais.*

Dated at Calgary, this 21 day of October 2015.

GRAF CANADA LTD.

By: [Signature]  
Name: Jared Dougherty  
Title: VP Finance

By: [Signature]  
Name: Gayle Estabrooks  
Title: CEO and President

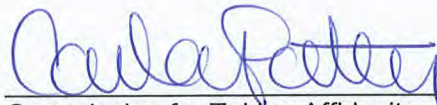
® Registered trade-marks of Bank of Montreal

7982902\_1|NATDOCS

Tab H

- 1 -

Exhibit "H" to the Affidavit of Hugh Devlin, sworn  
before me this 20<sup>th</sup> day of April, 2016.

A handwritten signature in blue ink, appearing to read "Paula Folley", is written over a horizontal line.

Commission for Taking Affidavits, etc.

## Confirmation Letter / Lettre de confirmation

D+H Limited Partnership / D+H Société en commandite  
Suite 200, 4126 Norland Avenue, Burnaby, BC V5G 3S8

Authorized Section 427 Bank Act Registrar / Bureau d'enregistrement autorisé conformément à l'article 427 de la Loi sur les banques.

Accounting Department  
Dentons Canada LLP  
15th Floor Bankers Court  
850 - 2nd Street Southwest  
Calgary, Alberta  
T2P 0R8

2015/10/13 03:44:55 PM PDT

Ref / Objet: 03710784, 03710785

Tel/Tél: 1-403-268-3015  
Fax/Télécopie: 1-403-268-3100  
Email/Courriel: daphne.urchesen@fmc-law.com

Attn: Joseph R. Palin

Acct# 1321

Dear Sir / Madam

Monsieur / Madame

Re: Bank Act Security - Section 427

Objet: Garanties données en vertu de la *Loi sur les banques - article 427*

We have processed your request(s) and hereby confirm the following results: (\*see below).

Nous avons donné suite à votre (vos) demande(s) et nous vous faisons part des résultats suivants: (\* voir ci-dessous).

Type	Registration Name	Address	Date	Expiry Date	Number	Bank Name
Type	Enregistrement au nom de	Adresse	Date	Expiry Date	Numéro	Banque
(1)	Graf Canada Ltd	2308 Portland Street S.W. Calgary AB T2G4M6	2015/10/13 03:09:24 PM PDT	2020/12/31	01302384	Bank of Montreal

### REFERENCE

- (1) We have entered the above names(s) on our register of notices of intention to give security under the Bank Act in the province of Alberta.
- (2) A search has been made of the notices of intention to give security under the Bank Act registered in the province of Alberta. As at the date and time above, our records indicate the following.

~~Your search criteria~~

Graf Canada Ltd

returns the following results:

Date	2010/05/03 01:42 PM PDT
Expiry Date	2015/12/31
Number/Numéro	01252419
Bank/Banque	Bank of Montreal
Name/Nom	Graf Canada Ltd.
Address/Adresse	2308 Portland Street Southeast Calgary

### REFERENCE

- (1) Nous avons ajouté le(s) nom(s) ci-dessus à notre registre de préavis se rapportant aux garanties données en vertu de la *Loi sur les banques* dans la province de: Alberta.
- (2) Nous avons examiné les préavis qui se rapportent aux garanties données en vertu de la *Loi sur les banques* et qui sont enregistrés pour la province de: Alberta. À la date et à l'heure indiquées ci-dessus.

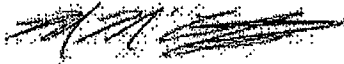
~~Votre critère de recherche~~

Graf Canada Ltd

révèle les résultats suivants:

AB  
T2G4M6

-----  
 Date 2015/10/13 03:09 PM PDT  
 Expiry Date 2020/12/31  
 Number/Numéro 01302384  
 Bank/Banque Bank of Montreal  
 Name/Nom Graf Canada Ltd  
 Address/Adresse 2308 Portland Street S.W.  
 Calgary  
 AB  
 T2G4M6  
 -----

  
 For Registrar / Pour le Régistrare

We acknowledge receipt of fees  
as follows:

Nous accusons réception des droits prescrits dont les  
montants s'établissent comme suit:

Type	Fee	GST/HST	Qty	Total	Receipt No.
Type	Tarif	TPS/TVH	Qté	Total	Numéro du reçu
(1)	\$11.00	\$0.00	1	\$11.00	03710784 - C-R-RN-FM
(2)	\$4.00	\$0.00	1	\$4.00	03710785 - C-R-PS-FM
				<b>\$15.00</b>	

GST-HST/TPS-TVH #: 85386 4528



- X1302384.TIF



# Tab 1

- 1 -

Exhibit "I" to the Affidavit of Hugh Devlin, sworn  
before me this 20<sup>th</sup> day of April, 2016.

  
Commission for Taking Affidavits, etc.

## FORBEARANCE AGREEMENT

**THIS AGREEMENT** made as of the 8th day of January, 2016.

**A M O N G :**

Bank of Montreal (the “**Bank**”)

-and

Graf Canada Ltd. (the “**Company**”)

**WHEREAS** pursuant to a Term Sheet dated March 25, 2014 (as the same may be amended, restated, supplemented or modified from time to time, collectively, the “**Credit Agreement**”), the Bank has made available to the Company a revolving facility limited to the maximum principal amount of \$5,100,000 (the “**Credit Facilities**”), subject to margin availability calculated pursuant to the terms of the Credit Agreement. As of January 5th, 2016, the principal amount outstanding under the Credit Facilities is CDN\$1,906,791.80, plus USD\$1,700,247.12, plus CDN\$3,000.00 representing the balance under Mastercards with the Bank, plus all interest, expenses, fees and other like charges.

**AND WHEREAS** the Bank and the Company have agreed to amend the Credit Agreement such that the maximum principal available pursuant to the Credit Facilities shall be \$5,000,000 from the date of execution of this Forbearance Agreement and shall remain as such unless amended in writing and confirmed by execution from both parties.

**AND WHEREAS** as security for its obligations to the Bank pursuant to the Credit Facilities, together with all other obligations of the Company to the Bank, the Company has granted to the Bank a security interest in all of its assets, property and undertaking pursuant to, amongst other documents, the previously executed general security agreement (collectively, the “**Initial Security**”);

**AND WHEREAS** each of Perseis Private Equity Limited Partnership (“**Perseis Non-QLP**”) and Perseis (QLP) Private Equity Limited Partnership (“**Perseis QLP**”) and together with Perseis Non-QLP, the “**Initial Guarantors**”) provided limited recourse guarantees dated March 25, 2014 in respect of the obligations of the Company to the Bank that were cash collateralized through a \$1,000,000 GIC (the “**Cash Collateral**”) held by the Bank pursuant to a Deposit Pledge Agreement dated March 25, 2014;

**AND WHEREAS** on or about December 28, 2015, the Initial Guarantors sold 100% of the issued and outstanding shares of the Company to Gayle Estabrooks (the “**Shareholder**”). In connection with this sale, the Company purchased the Cash Collateral and entered into a Deposit Pledge Agreement dated December 28, 2015 in respect of such Cash Collateral (the “**Pledge Agreement**” and with the Initial Security, the “**Security**”);

**AND WHEREAS** the Company has, with the assistance of Richter Advisory Group Inc. (the “**Financial Advisor**”), completed a 13 week cash flow projection (the “**Initial Cash Flow Statement**”). The Initial Cash Flow Statement establishes that the Company is in default of certain provisions of the Credit Agreement as set out under the formula in the Credit Agreement

for the Lending Margin Calculation which establishes the Loan Limit. The Initial Cash Flow Statement is attached to this Agreement as Schedule "A";

**AND WHEREAS** the Company is and continues to be in breach of the Credit Agreement and the Bank has the ability under the Credit Agreement to demand the Credit Facilities be immediately due and payable and terminate the Credit Agreement;

**AND WHEREAS** the Bank has, subject to the approval of the Bank's credit committee, agreed to forbear from enforcing its rights and remedies at this time on the basis that the Company agree to and comply with the terms of this Agreement;

**NOW THEREFORE** In consideration of the Bank's forbearance as described herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged by the Company, the Company hereby agrees with the Bank as follows:

1. The Company acknowledges and agrees that each of the foregoing recitals is true and correct.
2. The Company acknowledges that, unless otherwise specified all capitalized terms contained herein have the same meanings as in the Credit Agreement and all monetary amounts are expressed in Canadian dollars.
3. The Company acknowledges that:
  - (a) pursuant to the provisions of the *Limitations Act*, 2002, the Company is indebted to the Bank under the Credit Facilities in the amount specified in paragraph 1 of the Agreement as at the date specified therein, together with interest and costs to the date of payment;
  - (b) the Company is in breach of various provisions of the Credit Agreement; and
  - (c) the Bank is entitled to demand under the Credit Agreement and terminate the Credit Facilities and no further credit may be made available to the Company thereunder at the discretion of the Bank.
4. The Company acknowledges and agrees that all security now held by the Bank for the indebtedness and obligations of the Company to the Bank under the Credit Facilities or otherwise, including without limitation, the Security, is valid, binding and enforceable in accordance with its terms, notwithstanding the provisions of the *Limitations Act*, 2002.
5. The Company hereby consents to the terms of the Bank's forbearance and other accommodations as set out herein. The Company specifically acknowledges that they have no defences, counterclaims or rights of set-off or reduction to any claims which might be brought by the Bank under the Security granted by the Company to the Bank or in respect of the Credit Facilities, notwithstanding the provisions of the *Limitations Act*, 2002 based on their current knowledge or what they ought to know in the circumstances.
6. The Company agrees that upon execution of this Agreement, they shall absolutely and irrevocably release the Bank, its officers, directors, employees, solicitors and agents (the

“**Releasees**”) of and from any and all claims which they may have in respect of the Releasees up to and including the date hereof, including without limitation, any actions taken by the Bank in dealing with the Company, the Credit Facilities or with the administration of the Company’s accounts with the Bank.

7. In consideration of the Bank’s forbearance and the other accommodations described herein, the Company agrees to pay to the Bank a forbearance fee (the “**Forbearance Fee**”) in the amount of \$10,000 which shall be payable on the execution of this Agreement.

#### **CONDITIONS PRECEDENT**

8. The forbearance and other accommodations granted by the Bank hereunder are subject to approval by the Bank’s credit committee.
9. The Bank shall have received:
  - (a) a duly authorized, executed and delivered copy of this Agreement;
  - (b) payment of the Forbearance Fee;
  - (c) payment of all reasonable costs and expenses (including legal fees) of the Bank and the Bank’s counsel; and
  - (d) a certificate of insurance from the Company in respect of the AR Insurance (as hereinafter defined) noting the Bank as first loss payee.

(the “**Conditions Precedent**”)

The Conditions Precedent are for the sole benefit of the Bank and may be waived only by the Bank in writing.

Upon satisfaction of the Conditions Precedent, unless a Forbearance Terminating Event (as defined herein) occurs under this Agreement, the Bank shall take no further steps prior to February 29, 2016 (the “**Forbearance Deadline**”) to enforce the Security held by the Bank from the Company.

#### **AMENDMENTS TO CREDIT FACILITIES**

10. The Company acknowledges and agrees that, except as specifically amended herein, all terms and conditions of the Credit Agreement shall remain in effect unamended.
11. The Company acknowledges and agrees that the first four sentences in the ‘Remuneration’ section of the Credit Agreement are deleted in their entirety and replaced as follows:

BMO Prime Rate (“**Prime**”) + 3.75% per annum, payable monthly in arrears on all Canadian dollar direct advances;

- 4 -

Bankers' Acceptances (BA's) + 5.00% per annum, payable upfront as a stamping fee upon issuance and acceptance;

U.S. Base Rate ("**Base Rate**") + 3.75% per annum, payable monthly in arrears on all U.S. dollar direct advances; and

Letters of Credit shall have a fee equal to 5.00% per annum.

12. The Company acknowledges and agrees that a section of the Credit Agreement titled "**Additional Covenants**" shall be added and the following new covenants at the following paragraph references shall be added to the terms of the Credit Agreement:
  - (a) The Company shall maintain accounts receivable insurance with Export Development Canada, or such other insurance provider approved in writing by the Bank on terms and for values satisfactory to the Bank in its sole discretion (the "**AR Insurance**"). The Company shall (i) assign all such policies of AR Insurance to the Bank, (ii) provide the Bank copies of all relevant policies evidencing the AR Insurance and (iii) provide the Bank a certificate of insurance evidencing the Bank as first loss payee in respect of the AR Insurance.
  - (b) The limits on any visa or mastercard held by the Company, including the mastercard granted by the Bank to the Company, shall not exceed at any given time \$5,000. For certainty, any amounts borrowed by the Company by way of the Visa or Mastercard shall count towards the Company's maximum borrowing limit.
  - (c) The Company agrees to make the cash injections as outlined in the Initial Cash Flow Statement in addition to any additional cash injections required by the terms of this Agreement.
  - (d) The Company agrees to provide to the Bank weekly (at or before 5:00 p.m. EST on every Wednesday of each week for the week ending as at the preceding Sunday) a comparison of actual cash flows to the projected cash flows for the calendar week ended immediately prior to the most recently completed calendar week, and on a cumulative basis, as against the Initial Cash Flow Statement showing the variances on each line item and the total variance against the projected cash flows (the "**Cash Flow Variance**") in accordance with this Section, which Cash Flow Variance is to be reviewed by the Financial Advisor and certified by either (i) Gayle Estabrooks as Chief Executive Officer of the Company, or (ii) Jared Dougherty in his capacity as Vice-President Finance of the Company, as being accurate and correct as of the date of thereof and together with management's commentary on the variances of each line item and the Cash Flow Variance in sufficient detail for the Bank to understand the nature of the variances.
  - (e) The Company agrees to provide to the Bank weekly (at or before 5:00pm EST on every Wednesday of each week for the week ending as at the preceding Sunday) a calculation of the Loan Margin Calculation for cut-off date for the preceding week, with appropriate supporting documentation, which shall include, but not be

- 5 -

limited to, accounts receivable aging reports by invoice date, reports on the perpetual inventory and a calculation in sufficient detail and with sufficient documentation of Ineligible Inventory, Ineligible AR and the Shrinkage Reserve. Such Loan Margin Calculation shall be reviewed by the Financial Advisor and certified by either (i) Gayle Estabrooks as Chief Executive Officer of the Company, or (ii) Jared Dougherty in his capacity as Vice-President Finance of the Company, as being accurate and correct as of the date of thereof.

- (f) Without the prior written consent of the Bank, the borrowing base availability surplus or shortfall variance (the “**Margin Variance**”) on a week to week basis shall not be more negative than a negative \$75,000 Margin Variance (the “**Margin Variance Ceiling**”).
  - (g) The Company acknowledges and agrees that if at any time the Margin Variance reaches the Margin Variance Ceiling, the Company shall within one business day acquire and deposit the requisite funds necessary to bring the Margin Variance under the Margin Variance Ceiling.
  - (h) The \$5,000,000 availability under the Credit Agreement shall be subject to the deduction of (i) a reserve equal to three months’ rent pursuant as determined by the Lease of Industrial Speak Multi-Tenant Industrial Project Agreement between Portland Street Depot Ltd. and the Company commencing December 1, 2015; (ii) a reserve equal to \$150,000 representing the deductible for the AR Insurance; and (iii) and any other reserves the Bank determines necessary.
13. The Company Acknowledges and Agrees that the Lending Margin Formula in the Credit Agreement shall be deleted in its entirety and replaced in accordance with Schedule “B” hereto.
  14. Without limiting the Bank’s rights and remedies at any time, the Company acknowledges and agrees that upon the occurrence of the Forbearance Deadline or a Forbearance Terminating Event, the Bank may, at any time, terminate the Credit Facilities without notice to the Company upon which no further credit to the Company will be available thereunder.

## REPORTING REQUIREMENTS

15. The Company shall strictly adhere to all reporting requirements as set out in the Credit Agreement, except as amended herein. No late reporting will be tolerated by the Bank.

## ADDITIONAL COVENANTS

16. The Company represents, warranties, covenants and agrees that all business in the nature of or related to the business transacted by the Company prior to the date hereof shall continue to be transacted in the name of and for the account of the Company at the Bank. In particular, no such business or transaction shall be performed in the name of or recorded or applied for the benefit of any person, firm or corporation other than the Company. The Company acknowledges and agrees that the Company shall deposit all

revenues, collections of accounts receivable and any other income generated by the Company only to the Company's accounts with the Bank.

17. The Company confirms to and in favour of the Bank that all assets secured by the Bank's Security are in existence, in the possession and control of the Company and have not been transferred, sold, encumbered or impaired in any manner which would deteriorate from or adversely affect the value of same.
18. The Company acknowledges that the Bank has requested that the position of each unsecured creditor of the Company will not be adversely affected during the term of this Agreement, subject to the Company's usual business practices.
19. The Company agrees to comply with all applicable environmental laws and regulations and to advise the Bank promptly of any Action Requests or Violation Notices (as such terms are defined under the *Environmental Protection Act* (Ontario)) received concerning any of the Company's property and to hold the Bank harmless for any costs or expenses which the Bank incurs for any environment related liability existing now or in the future with respect to any of the Company's property. The Company certifies that no environmental laws or regulations have been violated by the Company to the best of its knowledge and no proceedings have or have been threatened to be instituted with respect to a breach of any environmental laws or regulations.
20. None of the Bank's existing rights and remedies, and none of the existing breaches of the terms of the Credit Agreement, are waived by this Agreement but are specifically reserved and preserved. However, subject to approval by the Bank's credit committee of the terms of this Agreement and subject to the provisions of this Agreement, the Bank agrees not to take any further steps in enforcement of its rights and remedies against the Company prior to the Forbearance Deadline unless and until one of the following events has occurred (a "**Forbearance Terminating Event**"):
  - (a) any default or breach by the Company occurs under this Agreement or any further breach by the Company, in the sole discretion of the Bank, of any obligation or covenant occurs under the Credit Facilities or the Credit Agreement or any of the other Security held by the Bank from the Company;
  - (b) if the Company fails to make any payment when due to the Bank;
  - (c) any other creditor of the Company exercises or purports to exercise any rights against any of the property, assets or undertaking of the Company or if the Company or any creditor brings any proceeding or takes any other action under the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"), the *Companies' Creditors Arrangement Act* (Canada), the *Business Corporations Act* of Ontario or Canada, the *Winding-Up Act* (Canada) or any similar legislation with respect to any of those parties;
  - (d) any representation or warranty made by the Company in connection with the execution and delivery of this Agreement or in any of the security agreements held by the Bank shall prove to have been incorrect in any material respect at the time such representation or warranty was made;



- 7 -

- (e) any default or failure by the Company to make any payment of wages or other monetary remuneration payable by the Company to its employees under the terms of any contract of employment, oral or written, express or implied (the “Payroll”) or the failure by the Company to pay to the relevant governmental authority when due any of the Priority Payables exigible in respect of a Payroll;
  - (f) the sale, lease, transfer, relocation, abandonment or any other disposition of the assets of the Company which are subject to the Bank’s security without the express prior written consent of the Bank;
  - (g) any default or failure by the Company to pay any of the Prior Claims or the Priority Payables when due;
  - (h) if any of the representations or financial reporting information provided by the Company to the Bank proves to be false, misleading, inaccurate or incorrect in any material respect at the time such representation or financial reporting information was made or delivered;
  - (i) there has been, in the opinion of the Bank, a Material Adverse Change in the affairs of the Company or with respect to the security position of the Bank after the date hereof or if any action which the Company may take only with the prior consent of the Bank is taken by the Company without such consent being previously obtained from the Bank;
  - (j) if the Company fails to provide the Bank the reporting or other information specified herein or in the Credit Agreement or as required from time to time;
  - (k) the Company fails to provide the Bank with a suitable replacement or extension Master Licensing Agreement with Graf & Co. Sportschuhfabrik for a term of not less than five (5) years and on terms acceptable to the Bank by January 31st, 2016 or any termination of any Master Licensing Agreement with Graf & Co. Sportschuhfabrik without the prior written consent of the Bank;
  - (l) failure by the Company, the Initial Guarantors or the Guarantor to complete the obligations stated in the executed undertaking dated December 28, 2015 and delivered pursuant to the Consent Agreement between the Company, Initial Guarantors, the Guarantor and the Bank, dated December 28, 2015;
  - (m) the Company fails to provide the Bank with evidence of the completed booking orders for 2016 and a revised forecast for the 2016 calendar year by February 15, 2016; and
  - (n) any Margin Variance in excess of the Margin Variance Ceiling that remains unremedied after one (1) business day.
21. Upon the earlier of:
- (a) the Forbearance Deadline, or
  - (b) the occurrence of a Forbearance Terminating Event

the Bank may immediately terminate the Credit Facilities and enforce, without further notice or delay, all of its rights and remedies against the Company including, without limitation, enforcing the security held by the Bank from the Company. The Company specifically acknowledges and agrees that in the event the Bank terminates its forbearance hereunder, the Company hereby irrevocably consents to the appointment of a receiver, receiver and manager or agent of the Bank's choosing of the assets, property and undertaking of the Company. The Company hereby agrees to fully co-operate with such receiver, receiver and manager or agent in the realization of the Bank's security. Also upon the occurrence of a Forbearance Terminating Event or the Forbearance Deadline, the Company consents and specifically authorizes the Bank or its authorized representative to contact any customer, creditor, employee, licensing authority or any other person in respect of the Company, the Company's indebtedness to the Bank, or any other matter or thing related to the business operations of the Company or any other matter deemed relevant by the Bank for the purpose of recovering the Company's indebtedness to the Bank. For the purpose of the foregoing provision, the Company specifically waives any and all duty of confidentiality which either the Bank or its agent or agents now have or may in the future have with respect to the Credit Facilities, the Company's indebtedness to the Bank, the business operations of the Company or any other information, whether confidential or otherwise, in the possession of the Bank relating to the business or operations of the Company or the Company's indebtedness to the Bank.

22. The Company hereby irrevocably agrees upon request by the Bank, to duly execute or deliver or cause to be executed or delivered to the Bank such further instruments, agreements or similar documents or do or cause to be done such further acts as may be necessary or desirable in the opinion of the Bank (including revising or amending any Security as necessary or providing such new security which may be requested by the Bank or its solicitors), acting reasonably, to carry out the provisions and purposes of this Agreement.
23. The Bank's forbearance from enforcing its rights and remedies against the Company and the other accommodations described herein are provided on a day to day basis and in the sole discretion of the Bank and may be terminated upon the occurrence of a Forbearance Terminating Event without requiring any further forbearance or delay on the part of the Bank.
24. All terms and conditions of the Credit Facilities and any other security delivered by the Company to the Bank shall continue in full force and effect save and except as amended by this Agreement. To the extent that any provision thereof is inconsistent with this Agreement, this Agreement shall prevail.
25. The Company covenants to and in favour of the Bank and agrees that, except as permitted herein, it will not grant any further security on any of its property, assets or undertaking without the written consent of the Bank, which may be withheld by the Bank in its sole and unfettered discretion.
26. For greater certainty, subject to the terms of this Agreement, the Company may not pay to the shareholders of the Company or any related person (being a subsidiary, affiliate or associate as such terms are defined in the *Canada Business Corporations Act* (Canada)

("CBCA")) to the Company or the shareholders thereof, or any of the Initial Guarantors, any amount whether by way of salary (outside of the ordinary course as defined by the Bank in its sole discretion), dividend, repayment of loans or otherwise without the Bank's prior written approval, which may be withheld by the Bank in its sole and unfettered discretion, except for salary payable to the Company's CEO, Gayle Estabrooks, at the historically consistent rate of \$16,667 per month, that is permitted, and reimbursement of reasonable business expenses incurred by her in the ordinary course, that is permitted. The Company acknowledges and agrees that any existing director or shareholder loans shall not be repaid by the Company and the Company shall not grant any loan to any officer or director of the Company or to any other related party as defined above. Additionally, the Company acknowledges that it has negotiated an agreement with its primary licensor stating that the Company shall be under no obligation to pay royalties until such time as a new licensing agreement has been agreed upon. In this regard the Company acknowledges to the Bank that it shall not make licensing fee or royalty fee payments to its licensor without the prior written consent of the Bank.

27. The Company acknowledges and agrees that there shall be no change of control or ownership of the Company, without the Bank's prior written consent, which consent may be withheld in the Bank's sole and unfettered discretion.
28. This Agreement shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**[Signature Page Follows]**

- 10 -

DATED at Toronto this 8 day of January, 2016.

IN WITNESS WHEREOF the parties have executed this Agreement.

**BANK OF MONTREAL**

By: \_\_\_\_\_

Name:

Title:

HUGH DEVLIN  
SENIOR MANAGER

**GRAF CANADA LTD.**

By: \_\_\_\_\_

Gayle Estabrooks  
President & CEO

(I have authority to bind the Company)

- 10 -

DATED at Toronto this 8 day of January, 2016.

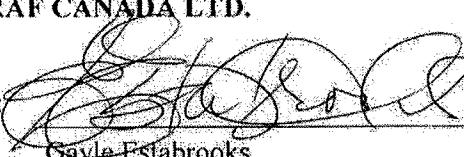
IN WITNESS WHEREOF the parties have executed this Agreement.

BANK OF MONTREAL

By: \_\_\_\_\_  
Name:  
Title:

GRAF CANADA LTD.

By:

A handwritten signature in dark ink, appearing to read 'Gayle Estabrooks', is written over a horizontal line.

Gayle Estabrooks  
President & CEO

(I have authority to bind the Company)

**SCHEDULE "A"**  
**INITIAL CASH FLOW STATEMENT**

See attached.

**GRAF Canada Ltd**  
**13-Week Cash Flow Summary**

3 Wks Ended			Forecast (Week Ending)																Total
(\$000's)	29-Nov	06-Dec	13-Dec	20-Dec	27-Dec	03-Jan	10-Jan	17-Jan	24-Jan	31-Jan	07-Feb	14-Feb	21-Feb	28-Feb					
Cash Receipts																			
Regular Sales		79	48	104	74	133	102	110	111	56	35	156	106	124		1,239			
Clearance Sales		-	-	-	25	-	-	-	25	-	-	-	25	-		75			
		79	48	104	99	133	102	110	136	56	35	156	131	124		1,314			
Operating Disbursements																			
Merchandise Payments		-	(185)	(81)	(83)	-	-	-	(133)	(133)	-	-	-	-		(616)			
Commissions		-	(12)	-	-	-	(9)	(5)	-	-	(4)	(3)	-	-		(35)			
Payroll		-	(48)	-	-	(46)	-	(46)	-	(46)	-	(46)	-	(46)		(278)			
Rent & Insurance		(13)	-	-	-	-	(13)	-	(6)	-	(13)	-	(6)	-		(51)			
NHL League Fees		-	-	(67)	-	-	-	-	-	-	-	-	-	-		(67)			
Utilities & Other Operating		(57)	(15)	(17)	(18)	(28)	(16)	(15)	(58)	(28)	(17)	(28)	(18)	(28)		(344)			
		(70)	(260)	(165)	(101)	(74)	(38)	(66)	(197)	(208)	(35)	(78)	(23)	(75)		(1,390)			
Other Disbursements																			
Prod. Working Notice/Severance		-	(18)	-	-	(58)	-	-	-	-	-	-	-	-		(76)			
BMO Interest & Bank Charges		(21)	(1)	(1)	(1)	(26)	(1)	(1)	(1)	(1)	(26)	(1)	(1)	(1)		(86)			
Perseis Note Interest		(11)	-	-	-	(10)	-	-	-	-	-	-	-	-		(20)			
GRAF AG/Perseis - Professional Fees		-	-	-	(50)	-	-	-	-	-	-	-	-	-		(50)			
Restructuring - Financial Advisor Ph. I		-	(20)	(30)	-	-	-	-	-	-	-	-	-	-		(50)			
Restructuring - Financial Advisor Ph. II		-	-	-	(25)	(10)	(10)	(10)	(20)	(20)	(20)	(5)	(5)	(5)		(130)			
Restructuring - BMO Legal Fees		-	-	(15)	-	-	-	-	-	-	-	-	-	-		(15)			
BMO Amendment Fee		-	-	(10)	-	-	-	-	-	-	-	-	-	-		(10)			
		(31)	(39)	(56)	(76)	(104)	(11)	(11)	(21)	(21)	(46)	(6)	(6)	(6)		(437)			
Net Cash Flow		(23)	(251)	(117)	(78)	(45)	53	33	(81)	(174)	(46)	72	102	43		(514)			
Revolver - Opening Balance	4,631	4,272	4,195	4,347	4,464	4,542	4,487	4,434	4,402	4,483	4,657	4,602	4,530	4,429		4,272			
Net Cash Outflow (Inflow)	41	23	251	117	78	45	(53)	(33)	81	174	46	(72)	(102)	(43)		514			
Draw on GRAF AG Funds	(400)	(100)	(100)	-	-	(100)	-	-	-	-	(100)	-	-	-		(400)			
Revolver - Ending Balance	4,272	4,195	4,347	4,464	4,542	4,487	4,434	4,402	4,483	4,657	4,602	4,530	4,429	4,386		4,386			
Borrowing Base Availability	3,192	3,151	3,089	3,070	3,038	2,996	2,972	2,942	2,891	2,882	2,867	2,817	2,755	2,778		2,778			
Availability Surplus (Shortfall)	(1,079)	(1,044)	(1,257)	(1,394)	(1,504)	(1,491)	(1,462)	(1,459)	(1,592)	(1,775)	(1,735)	(1,713)	(1,673)	(1,608)		(1,608)			
Less: Cumulative Cash Injection	(400)	(500)	(600)	(600)	(600)	(700)	(700)	(700)	(700)	(700)	(800)	(800)	(800)	(800)		(800)			
Adjusted Surplus (Shortfall)	(1,479)	(1,544)	(1,857)	(1,994)	(2,104)	(2,191)	(2,162)	(2,159)	(2,292)	(2,475)	(2,535)	(2,513)	(2,473)	(2,408)		(2,408)			
GRAF AG in Trust - Opening Balance	1,200	800	700	600	600	600	600	500	500	500	500	400	400	400		800			
Draw	(400)	(100)	(100)	-	-	(100)	-	-	-	-	(100)	-	-	-		(400)			
GRAF AG in Trust - Ending Balance	800	700	600	600	600	500	500	500	500	500	400	400	400	400		400			

**GRAF Canada Ltd**  
**13-Week Forecast EBITDA Reconciliation**

	Week Ending														Total
(\$000's)	06-Dec	13-Dec	20-Dec	27-Dec	03-Jan	10-Jan	17-Jan	24-Jan	31-Jan	07-Feb	14-Feb	21-Feb	28-Feb		
<b>Net Sales</b>	41	41	41	41	49	49	49	49	48	48	48	48	51	605	
<b>COGS</b>	(29)	(29)	(29)	(29)	(35)	(35)	(35)	(35)	(35)	(35)	(35)	(35)	(37)	(434)	
<b>Gross Margin</b>	12	12	12	12	14	14	14	14	13	13	13	13	14	170	
<b>Operating Expenses</b>	(56)	(56)	(56)	(56)	(57)	(57)	(57)	(57)	(49)	(49)	(49)	(49)	(44)	(693)	
<b>EBITDA</b>	(44)	(44)	(44)	(44)	(44)	(44)	(44)	(44)	(36)	(36)	(36)	(36)	(30)	(522)	
<b>Δ in Working Capital</b>															
Accounts Receivable	37	7	62	58	85	53	61	88	7	(13)	108	83	73	709	
Inventories	(36)	(36)	(36)	(36)	(13)	(13)	(13)	(13)	(13)	17	17	17	(107)	(264)	
Prepaid & Other Assets	(0)	13	13	13	16	4	16	11	16	4	16	11	13	147	
Accounts Payable & Acc. Liab.	50	(170)	(57)	6	(43)	63	23	(102)	(127)	29	(27)	33	100	(222)	
	51	(186)	(18)	42	45	107	87	(17)	(116)	36	114	144	79	369	
<b>Other Disbursements</b>															
BMO Interest & Bank Charges	(21)	(1)	(1)	(1)	(26)	(1)	(1)	(1)	(1)	(26)	(1)	(1)	(1)	(86)	
Perseis Note Interest	(11)	-	-	-	(10)	-	-	-	-	-	-	-	-	(20)	
GRAF AG/Perseis - Professional Fees	-	-	-	(50)	-	-	-	-	-	-	-	-	-	(50)	
Restructuring - Financial Advisor Ph. I	-	(20)	(30)	-	-	-	-	-	-	-	-	-	-	(50)	
Restructuring - Financial Advisor Ph. II	-	-	-	(25)	(10)	(10)	(10)	(20)	(20)	(20)	(5)	(5)	(5)	(130)	
Restructuring - BMO Legal Fees	-	-	(15)	-	-	-	-	-	-	-	-	-	-	(15)	
BMO Amendment Fee	-	-	(10)	-	-	-	-	-	-	-	-	-	-	(10)	
	(31)	(21)	(56)	(76)	(46)	(11)	(11)	(21)	(21)	(46)	(6)	(6)	(6)	(361)	
<b>Net Cash Flow</b>	(24)	(251)	(118)	(78)	(44)	53	33	(81)	(174)	(46)	72	102	43	(514)	
Revolver - Opening Balance	4,272	4,196	4,347	4,464	4,543	4,487	4,434	4,402	4,483	4,657	4,603	4,531	4,429	4,272	
Draw (Repayment)	24	251	118	78	44	(53)	(33)	81	174	46	(72)	(102)	(43)	514	
Draw on GRAF AG Funds	(100)	(100)	-	-	(100)	-	-	-	-	(100)	-	-	-	(400)	
<b>Revolver - Ending Balance</b>	4,196	4,347	4,464	4,543	4,487	4,434	4,402	4,483	4,657	4,603	4,531	4,429	4,386	4,386	



GRAF Canada Ltd																
Borrowing Base Calculation																
	Actual	Forecast (Week Ending)														
		29-Nov	06-Dec	13-Dec	20-Dec	27-Dec	03-Jan	10-Jan	17-Jan	24-Jan	31-Jan	07-Feb	14-Feb	21-Feb	28-Feb	



## SCHEDULE "B"

### LOAN MARGIN CALCULATION

#### Lending Margin Calculation

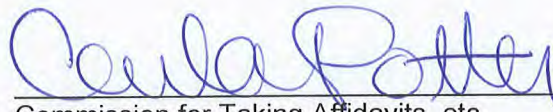
Advances shall be kept within the Loan Margin Calculation as follows

- 90% of the Bank's estimated worth of assigned Canadian and US domiciled Accounts Receivable that is covered by the AR Insurance and over which the Bank holds a valid first charge ("**Insured AR**"),
- PLUS 75% of the Bank's estimated worth of assigned Canadian and US domiciled Accounts Receivable over which the Bank holds a valid first charge and that is not Insured AR ("**Non-Insured AR**"),
- PROVIDED THAT the calculation of Insured AR and Non-Insured AR shall not include Accounts Receivable that is (i) 120 days past the date from which the applicable invoice was issued, (ii) any credit balances representing either Insured AR Non-Insured AR that are outstanding more than 120 days, (iii) 100% of any Insured AR or Non-Insured AR from any particular customer that has 25% or more of their total Accounts Receivable more than 120 days past the date from which the applicable invoice was issued, (iv) any Accounts Receivable from employees or related parties of Graf Canada Ltd., including but not limited to Graf Skates AG, Perseis Private Equity Limited Partnership, Perseis (QLP) Private Equity Limited Partnership, Perseis Equity General Partner Inc., Gayle Estabrooks or any affiliate, successor, director, shareholder or employee thereof, and (v) any Accounts Receivable in connection with samples, accrued rebates and discounts ("**Ineligible AR**"),
- PLUS 40% of the Bank's estimated worth of assigned Canadian and US domiciled Accounts Receivable in respect of the remaining one-time "clearance items" sold to Monkey Sports in March 2015,
- PLUS the lesser of (i) 2.5 million; or (ii) 85% of the net orderly liquidation value, or (iii) 65% of book value of finished goods inventory ("**Eligible Inventory**"), which for greater certainty shall include insured finished goods in transit. Eligible Inventory shall not include (i) raw materials inventory and (ii) work-in-progress inventory, including any semi-finished goods inventory,
- LESS a 9.2% shrinkage reserve on all Eligible Inventory.
- LESS any and all necessary reserves required to be reflected by the Bank, in its discretion, including but not limited to any priority payables, rent, accounts receivable insurance deductible, source deductions and employee wages. For certainty, the Bank has the right to add any payable to the priority payable list, in its discretion, on the basis that such priority payable may rank ahead of the Bank's security position.

Tab J

- 1 -

Exhibit "J" to the Affidavit of Hugh Devlin, sworn  
before me this 20<sup>th</sup> day of April, 2016.

A handwritten signature in blue ink, reading "Paula Potter", is written over a horizontal line.

Commission for Taking Affidavits, etc.

## ASSIGNMENT OF MATERIAL CONTRACTS AND OTHER RIGHTS

**ASSIGNMENT** dated as of January 29, 2016 made by Graf Canada Ltd. (the "**Corporation**") to and in favour of Bank of Montreal (the "**Bank**").

**WHEREAS** the Bank has agreed to provide certain credit facilities to the Corporation;

**AND WHEREAS** the Corporation has entered into the contracts described in Part 1 of Schedule "A" attached hereto (as the same may be amended, restated or replaced from time to time the "**Agreements**" and individually an "**Agreement**") and holds the licenses, trademarks, copyrights, patents and other intellectual property described in Part 2 of Schedule "A" attached hereto (as the same may be modified or replaced from time to time, the "**Intellectual Property**");

**AND WHEREAS** the Corporation has agreed to assign all of its right, title, interest and benefits (but not the liabilities or obligations) under the Agreements and the Intellectual Property (collectively, the "**Assigned Rights**" and individually an "**Assigned Right**") to the Bank as security for the payment and satisfaction of the present and future indebtedness, liabilities and obligations of the Corporation to the Bank, direct or indirect, absolute or contingent, joint or several, matured or unmatured (collectively, the "**Obligations**");

**NOW THEREFORE** for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the Corporation and the Bank, the Corporation agrees as follows:

1. The Corporation hereby assigns, transfers and makes over unto the Bank, and grants to the Bank a security interest in and to and the full benefit of, each and all of the Assigned Rights, and the Corporation further assigns, transfers and grants to the Bank a security interest in all deeds, documents, writings, papers, books of account and other books and records relating to the Assigned Rights or by which the Assigned Rights are or may hereafter be evidenced, effected or acknowledged.
2. The Corporation agrees that the Assigned Rights and each of them shall be held by the Bank as general and continuing collateral security for the payment and performance of the Obligations when due.
3. The Corporation hereby represents and warrants that the Agreements and the Assigned Rights are valid and enforceable in accordance with their terms, that neither the Corporation nor any other party (collectively "**Other Parties**" and individually an "**Other Party**") to the Agreements is in default pursuant to any of the provisions thereof.
4. The Corporation hereby expressly authorizes the Bank, upon the demand for payment of the Obligations, to enforce, recover and receive each and all of the Assigned Rights and all benefits arising with respect thereto, in the name of the Corporation or in the Bank's own name, with the same effect as if the Bank were the absolute owner thereof. The Bank may enforce or realize or dispose of any or all of the Assigned Rights in such manner, upon such terms and conditions, for such consideration and at such time or times as the Bank may deem expedient and without notice to the Corporation except as required by law and

without any liability for any loss resulting therefrom. The rights and remedies provided for hereunder are in addition to and not in substitution for any other rights and remedies available at law or equity, including without limitation the rights and remedies provided by the Personal Property Security Act.

5. The Bank may compound, compromise, grant extensions, take and give up securities, accept compositions, grant releases and discharges and otherwise deal with each Other Party, the Corporation and others, and with the Assigned Rights and other securities as the Bank may see fit, without prejudice to the liability of the Corporation or the Bank's right to hold and realize upon this security.
6. The Bank shall not be liable or accountable for any failure to enforce or realize any of the Assigned Rights and shall not be bound to institute proceedings for the purpose of enforcing or realizing the same or for the purpose of preserving any right of the Bank, the Corporation or any other person, firm or corporation in respect of the same.
7. Nothing herein shall obligate the Bank to assume or perform any obligation of the Corporation to any third party (including, without limitation, any Other Party) in respect or arising out of the Assigned Rights or any of them and the Corporation hereby agrees to indemnify and save harmless the Bank from any and all claims of such third parties. The Bank may however at its option assume or perform any such obligations which the Bank considers necessary or desirable to obtain the benefit of any Assigned Right free of any set-off, deduction or abatement and any money so expended by the Bank shall form part of the Obligations and bear interest at an annual rate equal to the rate applicable to the Obligations.
8. The Bank may charge on its own behalf and also pay to other persons, firms and corporations reasonable sums for services rendered and for expenses incurred in enforcing or realizing or attempting to enforce or realize the Assigned Rights or any of them and may add the amount of such sums to the Obligations and/or retain the said amount out of the moneys received by the Bank.
9. The Corporation represents and warrants that it has not heretofore assigned, pledged or encumbered the Assigned Rights and agrees with the Bank not to further assign, pledge or encumber the Assigned Rights, or any of them, so long as this assignment remains in force, to or in favour of any other person.
10. The Corporation agrees with the Bank not to materially modify or amend any provision of any Agreement or any Intellectual Property without the prior written consent of the Bank, such consent not to be unreasonably withheld, and, without limiting the generality of the foregoing, not to consent to any modification of, or waive the performance of, any material covenant by an Other Party made pursuant to an Agreement.
11. The Corporation covenants and agrees at the request of the Bank, from time to time, to do, make and execute all such further assignments, deeds, documents, acts, matters and things as may be required by the Bank of or with respect to all or any of the Assigned Rights or as may be required to give effect to these presents or any exercise of the powers of the



Bank hereby conferred, and the Corporation hereby constitutes and appoints any officer of the Bank the true and lawful attorney of the Corporation, irrevocable, with full power of substitution, to do, make and execute such assignments, deeds, documents, acts, matters and things as the Corporation has agreed by these presents to do, make and execute or as may be required to give effect to these presents or in the exercise of the powers conferred on the Bank, with the right to use the name of the Corporation whenever and wherever it may be deemed necessary or expedient.

12. The present assignment is given in addition to and not in substitution for any other assignment heretofore or now given by the Corporation to the Bank, as additional security for the payment and performance of the Obligations and shall not operate as a merger of any simple contract debt or in any way suspend the fulfilment of, or prejudice or affect the rights, remedies and powers of the Bank in respect of the said obligations or any securities held by the Bank for the fulfilment thereof. All remedies afforded to the Bank by these presents are separate and cumulative remedies and it is hereby agreed that no one of such remedies exercised by the Bank shall be deemed to be an exclusion of any other remedy to the Bank and shall not limit or prejudice any other legal or equitable remedy which the Bank may have.
13. The Corporation represents and warrants that the execution by it of this assignment has been duly authorized by all necessary corporate action, that this assignment is a valid, legal and binding obligation of the Corporation and that the person signing below on behalf of the Corporation has been duly authorized to do so, that all required consents to the assignment of the Assigned Rights hereby constituted have been obtained by the Corporation and that none of the Agreements or Intellectual Property has been supplemented, modified or amended in any material respect on or before the date hereof, save and except for such supplements, modifications or amendments a true executed copy of which the Bank shall have received.
14. The Corporation shall cause notice to be given to the Bank of any material default by the Corporation or any Other Party pursuant to any Agreement or any material dispute relating to the Intellectual Property promptly upon becoming aware of the occurrence of such default or such dispute, but in all events where it is possible, in sufficient time to afford the Bank a reasonable opportunity to cure any such default prior to the applicable Other Party having any right to terminate an Agreement by reason of such default; provided that nothing herein shall obligate the Bank to do so.
15. This Assignment shall be binding on the Corporation and the successors and permitted assigns of the Corporation and shall enure to the benefit of the Bank, its successors and assigns. The Corporation shall not assign any of its rights or obligations hereunder without the prior written consent of the Bank.
16. This Assignment shall be governed by and construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein. The Corporation agrees that the courts of competent jurisdiction located in the Province of Alberta shall have jurisdiction over all disputes which may arise hereunder, provided that nothing herein shall prevent the Bank at its election from proceeding against the Corporation in the courts



- 4 -

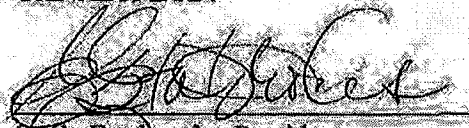
of any other province or country. The Corporation waives any right it may have to assert the doctrine of forum non conveniens or to object to such venue and hereby consents to any court ordered relief.

17. This Assignment is executed by the Corporation only and the Corporation hereby acknowledges that the Bank has accepted the same. Upon full and final payment and performance by the Corporation of all outstanding Obligations and there being no obligation of the Bank to extend any further or other credit to the Corporation whatsoever, the Bank shall upon request in writing by the Corporation and at the expense of the Corporation execute and deliver to the Corporation all such releases, re-assignments and discharges as the Corporation may reasonably require to forever re-assign to the Corporation all of the Assigned Rights and to discharge and release the charges and security interests hereby created.
18. The Corporation agrees it shall use its reasonable efforts to obtain a landlord waiver in a form satisfactory to the Bank.

IN WITNESS WHEREOF this Assignment has been executed as of the date first written above.

GRAF CANADA LTD.

By:

  
Gayle Estabrooks, President

- A 1 -

**SCHEDULE "A"**  
**PART 1**  
**LIST OF CONTRACTS**

1. Lease dated March 3, 2015, between the Corporation, as tenant, and Portland Street Depot Ltd., as landlord of the premises, located at 2308 Portland Street SE, Calgary, Alberta, Canada T2G 4M6
2. A license agreement between the Corporation, as licensee, and Graf Skates AG, as licensor, relating to hockey skates and related products dated as of January 1, 2016, and a license agreement between the same parties, relating to figure skates dated as January 1, 2016, (collectively, the "**Original License Agreements**"), as amended by an amendment to each of the Original License Agreements, each dated as of January 29, 2016 between the Corporation and Graf Skates AG (the Original License Agreements, as so amended, and as the same may be further amended, supplemented, restated or replaced from time to time, collectively, the "**License Agreements**")

- A 2 -

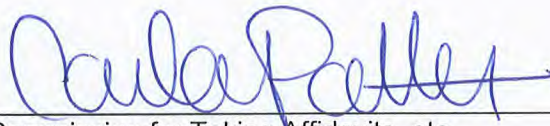
**SCHEDULE "A"**  
**PART 2**  
**LIST OF INTELLECTUAL PROPERTY**

The Corporation's rights as a licensee, to use the trademarks "GRAF" and "G" under and pursuant to the terms of the License Agreements.

Tab K

- 1 -

Exhibit "K" to the Affidavit of Hugh Devlin, sworn  
before me this 20<sup>th</sup> day of April, 2016.

A handwritten signature in blue ink, appearing to read "Paula Patten", is written over a horizontal line.

Commission for Taking Affidavits, etc.

## CONSENT AND NON-DISTURBANCE AGREEMENT

MADE EFFECTIVE as of the 29<sup>th</sup> day of January, 2016.

AMONG:

**GRAF SKATES AG**, a body corporate incorporated under the laws of Switzerland (hereinafter called the "**Licensor**")

OF THE FIRST PART

AND

**BANK OF MONTREAL**, a chartered bank incorporated under the laws of Canada (hereinafter called the "**Bank**")

OF THE SECOND PART

AND

**GRAF CANADA LTD.**, a corporation incorporated under the laws of the Province of Alberta (hereinafter called the "**Licensee**")

OF THE THIRD PART

**WHEREAS** the Licensor and Licensee are party to a license agreement relating to hockey skates and related products dated as of the date hereof and a license agreement relating to figure skates dated as of the date hereof (collectively, the "**Original License Agreements**"), as amended by an amendment to each of the Original License Agreements, each dated as of January 29, 2016 between the Licensor and the Licensee (the Original License Agreements, as so amended, and as the same may be further amended, supplemented, restated or replaced from time to time, collectively, the "**License Agreements**");

**AND WHEREAS** the Licensee wishes to mortgage, charge, assign and grant a security interest in the License Agreements to the Bank as security for its obligations, liabilities and indebtedness to the Bank from time to time;

**AND WHEREAS** the License Agreements provide that the Licensee shall not assign or encumber its interest without consent of the Licensor;

**NOW THEREFORE IN CONSIDERATION OF** the terms, covenants and conditions of this agreement, the sufficiency of which consideration is hereby acknowledged by the Licensor, the Licensor certifies, covenants and agrees to and with the Bank and the Licensee as follows:

1. The Licensor hereby consents to the Licensee mortgage, charging, assigning and granting a security interest in the License Agreements to the Bank pursuant to security documents as may

be entered into by the Bank and the Licensee from time to time, including a General Security Agreement and an Assignment of Material Contracts (collectively, the "Security Interest").

2. The License Agreements are presently in good standing, all payments thereunder required to be made to the date hereof have been made, no modifications have been made to the License Agreements to date other than those previously disclosed to the Bank, there are no existing defaults under the License Agreements of which the Licenser has knowledge, the License Agreements are in full force and effect, and the Licenser waives all past causes of termination of the License Agreements.

3. The Licenser has not received notice of any prior dispositions or assignments of the License Agreements nor has the Licenser consented to any prior dispositions of the License Agreements.

4. The Licenser will not allow the License Agreements to be amended, terminated, or surrendered without the prior written consent of the Bank, such consent not to be unreasonably withheld.

5. In the event of default under the License Agreements in relation to which the Licenser intends to enforce its remedies, the Licenser will, before taking steps to enforce its remedies, notify the Bank in writing of the default and allow the Bank the same periods of time from the date of such notice as are provided to the Licensee under the License Agreements to remedy the default. The Licenser also agrees to provide any other notices required under the License Agreement to both the Licensee and the Bank, including any notice of termination, whether or not such notice of termination would be required to be given to the Licensee pursuant to law or pursuant to the License Agreements.

6. In the event that the License Agreements would be terminable pursuant to any provision of the License Agreements, including, without limitation, Article 12 thereof, the License Agreements shall be deemed to continue in force for the balance of the term, including any rights to exercise a renewal, if the Bank within a period of 30 days following receipt by it of written notice of termination:

- (a) provides a notice in writing that from and after the date of such notice it undertakes to keep, observe and perform each and every of the terms, covenants and conditions of the License Agreements; or
- (b) provides a notice in writing that it has commenced to enforce its Security Interest and thereafter takes steps to enforce its rights and interests under its Security Interest, whether directly or through its nominees; then so long as the terms and conditions of the License Agreements are observed and performed commencing from and after such date, the Bank shall be entitled to enforce its rights and interests under its Security Interest as against the interest of the Licensee in and to the License Agreements, the Licenser shall not exercise any of its remedies pursuant to the License Agreements and the Bank shall be entitled to all of the rights, privileges and benefits of the Licensee under the License Agreements.

- 3 -

7. The Licensors agree that upon the exercise of any power of sale, foreclosure or other realization by the Bank in respect of the Licensee or the Security Interest, the Bank shall be entitled to assign the License Agreements to any party approved by the Licensors in accordance with the provisions of the License Agreements. The Bank shall cause any assignee of the Bank to covenant with the Licensors to perform all the Licensee's obligations under the License Agreements and as soon as the assignee becomes bound by the Licensee's obligations, the Bank shall be relieved from all liabilities and obligations hereunder. Nothing herein shall be read or construed to make the Bank liable for damages arising as a result of any breach of the License Agreements by the Licensee nor to constitute the Bank a mortgagee in possession.

8. Any notice herein provided or permitted to be given shall be sufficiently given by personal delivery, prepaid registered mail or telecommunication addressed to the parties as follows:

(a) to the Licensors:

Wiesenstrasse 10 CH - 8280 Kreuzlingen  
Switzerland

Attention: President  
Email: Karl.Graf@grafskates.com

(b) to the Licensee:

2308 Portland Street SE  
Calgary, AB Canada T2G 4M6

Attention: President  
Email: gestabrooks@grafcanada.com

(c) to the Bank:

Bank of Montreal  
11th Floor, First Canadian Place  
100 King Street West  
Toronto, ON M5Y 1A1

Attention: Senior Manager  
Fax No.: (416) 864-6534

Any party may at any given time give notice in writing to the other of any change of address of the party giving such notice and from and after the giving of such notice the address therein specified shall be deemed to be the address of such party for the giving of notice hereunder. The word "notice" shall include any request, statement or other writing in this agreement provided or permitted to be given by any party to the other. Any communication or notice mailed as aforesaid shall be deemed to have been given and received on the seventh business day following the date of its mailing, and if sent by telecopy shall be deemed to have been given and received on the first business day following receipt by the sender of confirmation of transmission.



- 4 -

9. In the event of any assignment of any of its interest in the License Agreement by the Licensors, the Licensors covenants and agrees to cause, as part of such transaction, the assignee, to enter into a written agreement with the Licensee and the Bank on the same terms as this Agreement and in a form satisfactory to the Bank, acting reasonably.

10. The Licensors agree at any time and from time to time upon not less than fifteen (15) days prior notice to execute and deliver to the Bank a statement in writing (confirmed also by a certificate of the Licensee) certifying that the License Agreement is in good standing (or if in default noting the particulars thereof), unmodified and in full force and effect (or, if modified, stating the modifications and that the same is in full force and effect as modified), the amount of the royalties paid within the last twelve (12) months thereunder, and the dates to which the same, by instalments or otherwise and other charges hereunder, have been paid.

11. This agreement shall apply to any renewal of the License Agreement or to any replacement thereof.

12. This agreement shall be governed and construed in accordance with the laws of the Province of Alberta and the parties submit to the non-exclusive jurisdiction of the courts of Alberta for all matters or disputes arising out of or in relation to this agreement.

13. This agreement shall be binding upon the parties hereto, their successors and assigns and the Licensors shall obtain the agreement of any successor or assigns to the terms hereof, and this agreement shall enure to the benefit of the Bank and its respective successors and assigns.

14. This agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument and, notwithstanding their date of execution, shall be deemed to bear the date first written above.

\*

\*

\*

[Signature Page Follows]

\*

\*

\*

\*

\*

\*

IN WITNESS WHEREOF the parties have caused this agreement to be executed by the hands of their proper officers effective as of the day and year first written above.

**GRAF SKATES AG**

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

Name: Karl Graf  
Title: President

**BANK OF MONTREAL**

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

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**GRAF CANADA LTD.**

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

Name: Gayle Estabrooks  
Title: President

IN WITNESS WHEREOF the parties have caused this agreement to be executed by the hands of their proper officers effective as of the day and year first written above.

**GRAF SKATES AG**

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

Name: Karl Graf

Title: President

**BANK OF MONTREAL**

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

Name:

HUGH DEVLIN

Title: SENIOR MANAGER

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

Name:

Title:

**GRAF CANADA LTD.**

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

Name: Gayle Estabrooks

Title: President

- 5 -

IN WITNESS WHEREOF the parties have caused this agreement to be executed by the hands of their proper officers effective as of the day and year first written above.

**GRAF SKATES AG**

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

Name: Karl Graf

Title: President

**BANK OF MONTREAL**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**GRAF CANADA LTD.**

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

Name: Gayle Estabrooks

Title: President

Tab L

- 1 -

Exhibit "L" to the Affidavit of Hugh Devlin, sworn  
before me this 20<sup>th</sup> day of April, 2016.

  
\_\_\_\_\_  
Commission for Taking Affidavits, etc.

## FIRST AMENDMENT TO FORBEARANCE AGREEMENT

**THIS FIRST AMENDMENT TO FORBEARANCE AGREEMENT** (this "**Amendment**") is dated February 24, 2016.

### AMONG:

Bank of Montreal (the "**Bank**")

-and

Graf Canada Ltd. (the "**Company**")

### RECITALS

- A. The Bank and the Company are parties to a Forbearance Agreement dated January 8, 2016 (the "**Forbearance Agreement**"), pursuant to which the Bank agreed to forbear from taking certain actions under the Credit Agreement and the Security in connection with the existing defaults under the Credit Agreement and agreed to amend certain terms applicable to the Credit Facilities made available to the Company under the Credit Agreement, solely on the terms and conditions and subject to the limitations as specified in the Forbearance Agreement;
- B. The Forbearance Deadline, pursuant to the terms of the Forbearance Agreement, expires on February 29, 2016, at which time all of the obligations of the Company to the Bank, including the obligations in respect of the Credit Facilities under the Credit Agreement and the balance under the Mastercards with the Bank will become due and payable to the Bank; and
- C. The Company has requested, and the Bank has agreed, subject to the terms and conditions contained herein, to extend the Forbearance Deadline and amend certain of the terms of the Forbearance Agreement.

**NOW THEREFORE**, in consideration of the accommodations of credit made available by the Bank to the Company, the mutual covenants and agreements herein contained and other good and valid consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

- 1. **Definitions.** All capitalized terms used in this Amendment, unless otherwise defined herein, shall have the meanings ascribed to such terms in the Forbearance Agreement.
- 2. **Amendments to Forbearance Agreement.** The Forbearance Agreement is hereby amended as follows:
  - (a) The last paragraph of Section 9 is deleted in its entirety and replaced with the following:

- 2 -

“Upon satisfaction of the Conditions Precedent, unless a Forbearance Terminating Event (as defined herein) occurs under this Agreement, the Bank shall take no further steps prior to April 29, 2016 (the “**Forbearance Deadline**”) to enforce the Security held by the Bank from the Company. “

- (b) **Schedule A** to the Forbearance Agreement (regarding Initial Cash Flow) is hereby replaced in its entirety by Exhibit A hereto which shall be the ‘Initial Cash Flow’ for the purposes of the Forbearance Agreement as amended by this Amendment (the “**Revised Cash Flow**”).
3. **Forbearance Extension Fee.** The Company shall pay to the Bank a forbearance extension fee in the amount of \$10,000 (the “**Forbearance Extension Fee**”), which shall be deemed to be fully earned and payable upon the execution and delivery of this Amendment.
4. **Costs and Expenses.** The Company hereby reaffirms its agreement under the Forbearance Agreement to pay or reimburse the Bank for all costs and expenses (including legal fees) incurred by the Bank and the Bank’s Counsel in connection with Forbearance Agreement, this Amendment or any documents, instruments or other agreements required in connection therewith, including, without limitation, all reasonable fees and disbursements of legal counsel.
5. **Conditions Precedent.** This Amendment shall be effective when each of the following, in substance and form acceptable to the Bank in its sole discretion, have occurred:
- (a) the Bank has received a duly authorized, executed and delivered copy of this Amendment;
  - (b) payment of the Forbearance Extension Fee;
  - (c) payment of all reasonable costs and expenses (including legal fees) of the Bank and the Bank’s counsel; and
  - (d) such other matters as the Bank may reasonably require in its discretion.
6. **No Other Changes.** Except as explicitly amended by this Amendment, all of the terms and conditions of the Forbearance Agreement and the Credit Agreement shall remain in full force and effect, unamended hereby.
7. **References.** All references in the Forbearance Agreement or the Credit Agreement to “this Agreement” shall be deemed to refer to the Forbearance Agreement or the Credit Agreement, as applicable, as amended hereby.
8. **Miscellaneous.** This Amendment may be executed in any number of counterparts and delivered by PDF or other electronic method, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same agreement.



**IN WITNESS WHEREOF**, the parties hereto have entered into this Agreement as of the date first above mentioned.

**IN WITNESS WHEREOF**, the parties have entered into this Agreement as of the date first above mentioned.

**BANK OF MONTREAL**

By: 

Name:

Title:

HUGH DEVLIN  
SENIOR MANAGER

**GRAF CANADA LTD.**

By: \_\_\_\_\_

Name:

Title:

(I have authority to bind the Company)

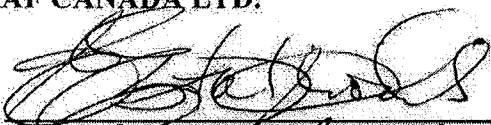
IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date first above mentioned.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date first above mentioned.

**BANK OF MONTREAL**

By: \_\_\_\_\_  
Name:  
Title:

**GRAF CANADA LTD.**

By:   
Name: G. E. BROOKS  
Title: PRESIDENT & CEO  
(I have authority to bind the Company)

# **EXHIBIT A** **INITIAL CASH FLOW**

GRAF Canada Ltd Weekly Cash Flow Summary													
	Forecast (Week Ending)												
	14-Feb	21-Feb	28-Feb	06-Mar	13-Mar	20-Mar	27-Mar	03-Apr	10-Apr	17-Apr	24-Apr	01-May	Total
Cash Receipts													
Regular Sales	146	83	110	81	88	70	131	108	103	109	258	111	1,378
Clearance Sales	-	89	-	-	-	69	-	-	-	-	-	69	208
	146	133	110	81	88	139	131	108	103	109	258	180	1,587
Operating Disbursements													
Merchandise Payments	(10)	(60)	(50)	-	(70)	-	-	(70)	-	-	(70)	(20)	(350)
Rebates	-	-	-	-	-	-	-	-	(85)	-	-	-	(85)
Commissions	-	(6)	-	-	-	(7)	-	-	-	(16)	-	-	(29)
Payroll	(44)	-	(44)	-	(44)	-	(44)	-	(44)	-	(44)	-	(266)
Rent & Insurance	-	-	-	(36)	-	-	-	(36)	-	-	-	-	(72)
Audit Fees	-	-	-	-	-	-	-	-	-	-	(30)	-	(30)
Utilities & Other Operating	(87)	(33)	(29)	(29)	(20)	(20)	(29)	(23)	(46)	(45)	(42)	(45)	(446)
	(141)	(99)	(123)	(65)	(134)	(27)	(73)	(128)	(176)	(61)	(186)	(65)	(1,277)
Other Disbursements													
BMO Interest & Bank Charges	(1)	(1)	(1)	(23)	(1)	(1)	(1)	(1)	(23)	(1)	(1)	(1)	(66)
GRAF AG/Persels - Professional Fees	-	(25)	-	-	-	-	(25)	-	-	-	-	-	(50)
Restructuring - Financial Advisor Ph. II	(5)	(5)	(20)	(15)	(15)	-	(10)	-	(15)	-	(25)	-	(110)
Restructuring - BMO Legal Fees	(30)	-	-	(20)	-	-	-	-	-	-	-	-	(60)
BMO Amendment Fee	-	-	(10)	-	-	-	-	-	-	-	-	-	(10)
	(36)	(31)	(31)	(58)	(16)	(1)	(36)	(1)	(38)	(1)	(26)	(1)	(276)
Net Cash Flow	(31)	3	(44)	(43)	(62)	112	22	(21)	(111)	47	47	114	33
Revolver - Opening Balance	4,218	3,899	3,897	3,941	3,984	4,046	3,934	3,912	3,933	4,044	3,996	3,949	4,218
Net Cash Outflow (Inflow)	31	(3)	44	43	62	(112)	(22)	21	111	(47)	(47)	(114)	(33)
Draw on GRAF AG Funds	(350)	-	-	-	-	-	-	-	-	-	-	-	(350)
Revolver - Ending Balance	3,898	3,897	3,941	3,984	4,046	3,934	3,912	3,933	4,044	3,996	3,949	3,835	3,835
Borrowing Base Availability	2,482	2,566	2,393	2,378	2,528	2,453	2,324	2,323	2,428	2,444	2,329	2,256	2,266
Availability Surplus (Shortfall)	(1,417)	(1,331)	(1,548)	(1,606)	(1,518)	(1,481)	(1,588)	(1,510)	(1,616)	(1,552)	(1,621)	(1,579)	(1,579)
Less: Cumulative Cash Injection	(1,200)	(1,200)	(1,200)	(1,200)	(1,200)	(1,200)	(1,200)	(1,200)	(1,200)	(1,200)	(1,200)	(1,200)	(1,200)
Adjusted Surplus (Shortfall)	(2,617)	(2,531)	(2,748)	(2,806)	(2,718)	(2,681)	(2,788)	(2,810)	(2,816)	(2,752)	(2,821)	(2,779)	(2,779)
Shortfall - Original Cash Flow (to Feb. 28)	(1,713)	(1,673)	(1,608)	(1,608)	(1,608)	(1,608)	(1,608)	(1,608)	(1,608)	(1,608)	(1,608)	(1,608)	(1,608)
Variance to Original	296	343	59	2	90	127	19	(2)	(8)	56	(13)	29	29

First Amendment to Forbearance Agreement

GRAF Canada Ltd Borrowing Base Calculation		Forecast (Week Ending)											
		14-Feb	21-Feb	28-Feb	06-Mar	13-Mar	20-Mar	27-Mar	03-Apr	10-Apr	17-Apr	24-Apr	01-May
(\$000's)													
Gross Accounts Receivable		2,094	2,010	1,937	1,894	1,844	1,742	1,649	1,744	1,843	1,938	1,882	1,837
Less: Ineligibles		(960)	(810)	(920)	(880)	(840)	(880)	(920)	(940)	(940)	(940)	(940)	(940)
Net AR		1,134	1,200	1,017	1,014	1,004	862	729	804	903	998	942	897
Blended Margin %		61%	65%	61%	61%	61%	57%	51%	55%	58%	61%	60%	59%
Margined AR		692	784	622	620	610	491	373	439	527	611	562	527
Inventories (per listing)		3,252	3,220	3,196	3,186	3,163	3,223	3,200	3,063	3,347	3,210	3,073	2,995
Add: In-Transit FG		84	98	98	84	394	421	421	421	200	200	200	200
Less: Raw Materials		(959)	(959)	(959)	(959)	(959)	(959)	(959)	(959)	(959)	(959)	(959)	(959)
Ineligibles		(224)	(223)	(221)	(218)	(262)	(272)	(269)	(257)	(250)	(237)	(225)	(217)
Net Inventory		2,154	2,137	2,115	2,094	2,336	2,415	2,393	2,269	2,339	2,214	2,090	2,019
Margin %		52%	52%	52%	51%	53%	53%	53%	53%	52%	52%	52%	52%
Margined Inventory (Max. \$2.5M)		1,110	1,103	1,091	1,079	1,238	1,283	1,271	1,205	1,221	1,154	1,087	1,049
Shareholder Cash Collateral		1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
Total Margined Assets		2,802	2,887	2,713	2,698	2,848	2,774	2,644	2,644	2,748	2,765	2,649	2,577
Reserves		(320)	(320)	(320)	(320)	(320)	(320)	(320)	(320)	(320)	(320)	(320)	(320)
Borrowing Base Availability		2,482	2,566	2,393	2,378	2,528	2,453	2,324	2,323	2,428	2,444	2,329	2,256
Revolver Limit		5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Revolver Balance		3,899	3,897	3,941	3,984	4,046	3,934	3,912	3,933	4,044	3,996	3,949	3,835
Availability Surplus (Shortfall)		(1,417)	(1,331)	(1,548)	(1,606)	(1,518)	(1,481)	(1,588)	(1,610)	(1,616)	(1,552)	(1,621)	(1,579)
Less: Cumulative Cash Injection		(1,200)	(1,200)	(1,200)	(1,200)	(1,200)	(1,200)	(1,200)	(1,200)	(1,200)	(1,200)	(1,200)	(1,200)
Adjusted Surplus (Shortfall)		(2,617)	(2,531)	(2,748)	(2,806)	(2,718)	(2,681)	(2,788)	(2,810)	(2,816)	(2,752)	(2,821)	(2,779)

[Signature Page to First Amendment to Intercreditor Agreement]

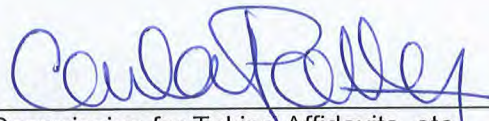
GRAF Canada Ltd Key Working Capital Rollforwards													
(\$000's)	Forecast Week Ending												
	14-Feb	21-Feb	28-Feb	06-Mar	13-Mar	20-Mar	27-Mar	03-Apr	10-Apr	17-Apr	24-Apr	01-May	Total
Accounts Receivable													
Opening Balance	2,192	2,094	2,010	1,937	1,894	1,844	1,742	1,649	1,744	1,843	1,938	1,882	2,192
Sales	48	48	38	38	38	38	38	203	203	203	203	135	1,231
Collections	(146)	(133)	(110)	(81)	(88)	(139)	(131)	(108)	(103)	(109)	(258)	(180)	(1,587)
Ending Balance	2,094	2,010	1,937	1,894	1,844	1,742	1,649	1,744	1,843	1,938	1,882	1,837	1,837
Accounts Payable													
Opening Balance	728	645	563	494	488	408	482	463	382	771	739	641	728
Expenses	14	14	9	10	10	10	10	12	13	13	13	14	141
Purchases	-	-	-	14	-	84	-	-	421	-	-	-	520
Payments	(97)	(96)	(79)	(29)	(90)	(20)	(29)	(93)	(46)	(45)	(112)	(65)	(799)
Ending Balance	645	563	494	488	408	482	463	382	771	739	641	589	589
Inventory (FG)													
Opening Balance	2,325	2,293	2,261	2,237	2,228	2,204	2,265	2,241	2,104	2,388	2,251	2,114	2,325
Purchases/Production	2	2	2	16	2	86	2	2	424	2	2	2	546
COGS	(34)	(34)	(26)	(26)	(26)	(26)	(26)	(139)	(139)	(139)	(139)	(80)	(834)
Ending Balance	2,293	2,261	2,237	2,228	2,204	2,265	2,241	2,104	2,388	2,251	2,114	2,036	2,036
Key Metrics													
DSO	145	144	137	132	145	142	131	142	153	132	127	129	Avg. 139
DPO	72	72	72	77	74	77	82	75	75	80	74	49	74
DSOH (FG)	161	160	159	158	157	160	159	152	166	159	153	149	158

[Signature Page to First Amendment to Intercreditor Agreement]

Tab M

- 1 -

Exhibit "**M**" to the Affidavit of Hugh Devlin, sworn  
before me this 20<sup>th</sup> day of April, 2016.



---

Commission for Taking Affidavits, etc.



April 15, 2016

**PERSONAL AND CONFIDENTIAL**

Graf Canada Ltd.  
4600 Eight Avenue Place East  
525 – 8th Avenue SW  
Calgary, Alberta  
T2P 1G1

cpotter@casselsbrock.com  
tel: 416.860.6899  
file: 33336-353

Dear Sirs/Mesdames:

**Re: Graf Canada Ltd. (the "Company") Indebtedness to Bank of Montreal ("BMO" or the "Bank")**

We act as counsel to BMO in connection with the above-noted matter.

Pursuant to a Term Sheet dated March 25, 2014 (as the same may be amended, restated, supplemented or otherwise modified from time to time, collectively, the "**Credit Agreement**"), BMO made available to the Company a revolving facility limited to the maximum principal amount of \$5,100,000 (the "**Credit Facilities**"), subject to margin availability calculated pursuant to the terms of the Credit Agreement. In addition, the Company holds a Mastercard facility with the Bank with a limit of \$5,000.00 (the "**Mastercard**").

As security for its obligations to the Bank pursuant to the Credit Facilities, together with all other obligations of the Company to the Bank, the Company has granted to the Bank a security interest in all of its assets, property and undertaking pursuant to, amongst other documents, the security documents listed on Schedule A hereto (collectively, the "**Initial Security**").

Each of Perseis Private Equity Limited Partnership ("**Perseis Non-QLP**") and Perseis (QLP) Private Equity Limited Partnership ("**Perseis QLP**") and together with Perseis Non-QLP, the "**Initial Guarantors**") provided limited recourse guarantees dated March 25, 2014 in respect of the obligations of the Company to the Bank that were cash collateralized through a \$1,000,000 GIC (the "**Cash Collateral**") held by the Bank pursuant to a Deposit Pledge Agreement dated March 25, 2014.

On or about December 28, 2015, the Initial Guarantors sold 100% of the issued and outstanding shares of the Company to Gayle Estabrooks. In connection with this sale, the Company purchased the Cash Collateral and entered into a Deposit Pledge Agreement dated December 28, 2015 in favour of the Bank in respect of such Cash Collateral (the "**Pledge Agreement**" and with the Initial Security, the "**Revised Security**").

Due to the Company being in default under various terms of the Credit Agreement and the ability of the Bank to demand the Credit Facilities to be immediately due and payable, the Company and the Bank agreed to enter into a Forbearance Agreement made as of January 8th, 2016 (the "**Forbearance Agreement**"), whereby, among other things, the Credit Agreement was amended such that the maximum amount available pursuant to the Credit Facilities was reduced to CDN\$5,000,000 and the Bank agreed, subject to the terms of the Forbearance





Agreement, to forbear from enforcing its rights against the Company and under the Revised Security until February 29, 2016 (the "**Initial Forbearance Deadline**").

In accordance with the Initial Forbearance Agreement, the Company was required to enter into a revised licensing agreement with Graf Skates AG, and entered into a License Agreement with Graf Skates AG with respect to Figure Skates and a License Agreement with Graf Skates AG with respect to Hockey Skates on January 29, 2016. In connection therewith, the Company provided the Bank additional security with respect to these licensing arrangements, including the Consent and Non-Disturbance Agreement dated January 29, 2016 between Graf Skates AG, the Bank and Graf Canada Ltd (the "**Consent and Non-disturbance Agreement**") and the Assignment of Material Contract and Other Rights dated January 29, 2016 granted by the Company in favour of the Bank (the "**Assignment of Material Contracts**", and together with the Consent and Non-Disturbance Agreement and the Revised Security, the "**Security**").

On or about February 29, 2016, the Company requested, and the Bank agreed, to extend the Initial Forbearance Deadline to April 29, 2016 and to amend some of the terms of the Forbearance Agreement, all as contained in the First Amending Agreement to the Forbearance Agreement dated February 24, 2016 (the "**First Amendment**", and with the Initial Forbearance Agreement, the "**Forbearance Agreement**").

On April 14, 2016 the Company advised the Bank that its revenue would be significantly less than forecasted and as a result the Company would no longer be able to pay amounts due to the Bank pursuant to the Credit Agreement, which in accordance with Section 20(i) of the Forbearance Agreement constitutes a Forbearance Terminating Event (as such term is defined in the Forbearance Agreement).

As the Company continues to be in default under the Credit Agreement and Forbearance Terminating Events have occurred, all of the indebtedness and liability of the Company to the Bank pursuant to the Credit Facilities and the Mastercards is due on demand.

As of April 15, 2016, the principal outstanding under the Credit Facilities is CDN\$1,690,281.90 (the "**Canadian Loan**"), plus USD\$1,526,984.82 (the "**US Loan**") plus CDN\$3,314.78 representing the balance under Mastercard, plus all interest, expenses and other like charges.

The Bank hereby gives notice that all of the Company's obligations under the Credit Agreement and the Mastercard are immediately due and payable and the Credit Facilities, which for greater certainty shall include the Mastercards, are hereby cancelled.



Page 3

The Bank hereby demands immediate payment of all of the Company's obligations under the Credit Agreement and the Mastercard. As at April 15, 2016 the Company is indebted to the Bank in the total amount of CDN\$1,696,792.15 and USD\$1,530,485.65 as follows:

Principal – Canadian Loan	\$1,690,281.90
Interest – Canadian Loan	\$3,195.48
Mastercard Balance	\$3,314.78
<b>TOTAL CANADIAN BALANCE</b>	<b>\$1,696,792.16</b>
Principal – US Loan	\$1,526,984.82
Interest – US Loan	\$3,500.83
<b>TOTAL: US BALANCE</b>	<b>\$1,530,485.65</b>

Please note that, until the obligations are paid in full, interest on the Credit Facilities continue to accrue in accordance with the terms of the Credit Agreement at a per diem rate of \$217.06 as it relates to the Canadian Loan and \$250.33 as it relates to the US Loan. Please ensure that such funds are forwarded to the Bank as required under the Credit Agreement. Unless the Company makes the required payment to the Bank forthwith, and in any event by no later than April 26, 2016, the Bank may exercise such remedies as it deems advisable, including without limitation, the enforcement of the Security. The Bank reserves the right to take such steps prior to such date as may be necessary to protect its position without further notice to the Company.

We enclose The Bank's Notice of Intention to Enforce Security and Consent to Earlier Enforcement pursuant to Sections 244(1) and 244(2) respectively of the *Bankruptcy and Insolvency Act* (Canada). Should you consent to the earlier enforcement of the Security, please execute and return the consent to the undersigned.

We urge you to give this matter your immediate attention.

Yours truly,

Carla Potter

LE/CP

Enclosures

CC: Bank of Montreal

**NOTICE OF INTENTION TO ENFORCE SECURITY UNDER SECTION 244(1) OF  
THE BANKRUPTCY AND INSOLVENCY ACT (CANADA)**

**TO:** Graf Canada Ltd., an insolvent person (the "Debtor")

---

Take notice that:

1. Bank of Montreal, a secured creditor (the "**Secured Party**"), intends to enforce its security on the Debtor's property and assets described below (the "**Collateral**"): 

all of the Debtor's personal property (including all inventory, equipment, machinery, fixtures, book debts, contractual rights, monies, chattel paper, intellectual property, and goodwill), together with all proceeds, additions, accretions, and substitutions therefor, and including, but not limited to, for greater certainty cash collateral held by the Secured Party as security for the Debtor.
2. The security that is to be enforced is in the form set out on Schedule 'A' hereto (the "**Security**").
3. The total indebtedness secured by the Security as at April 15, 2016 is **CDN\$1,696,792.16 plus USD\$1,530,485.65** plus costs and interest to the date of payment.
4. The Secured Party will not have the right to enforce the Security until after the expiry of the 10-day period following the sending of this notice, unless the Debtor consents to an earlier enforcement.
5. A consent to earlier enforcement of the Security pursuant to section 244(2) of the *Bankruptcy and Insolvency Act* (Canada) is attached to this notice. Should you wish to consent to the earlier enforcement of the Security, please execute and return the enclosed consent to the Secured Party's solicitors, Cassels Brock & Blackwell LLP, to the attention of Carla Potter.

Dated at Toronto on April 15, 2016.

**BANK OF MONTREAL  
BY ITS SOLICITORS,  
CASSELS BROCK & BLACKWELL LLP**

Per: 

**Schedule 'A'**  
**Security Documents**

1. General Security Agreement granted by Graf Canada Ltd. to Bank of Montreal on October 20, 2006;
2. Notice of Intention to take security under Section 427 of the Bank Act granted by Graf Canada Ltd. to Bank of Montreal on October 17, 2006;
3. Application for Credit and Promise to Give Bills of Lading, Warehouse Receipts or Security under Section 427 of the Bank Act granted by Graf Canada Ltd. in favour of Bank of Montreal on October 20, 2006;
4. Agreement as to Loans and Advances and Security therefore granted to Bank of Montreal by Graf Canada Ltd. on October 20, 2006;
5. Security under sec. 427(1) of the Bank Act granted by Graf Canada Ltd. to Bank of Montreal on October 20, 2006;
6. General Assignment of Debts etc. granted by Graf Canada Ltd. to Bank of Montreal on October 20, 2006;
7. Assignment of Insurance Proceeds granted by Graf Canada Ltd. to Bank of Montreal dated October 20, 2006;
8. Assignment of Material Contracts and Other Rights made by Graf Canada Ltd. to and in favour of Bank of Montreal dated October 20, 2006;
9. Environmental Indemnity dated October 20, 2006 executed by Graf Canada Ltd. in favour of Bank of Montreal;
10. FirstBank Acceptance Agreement dated October 20, 2006 executed by Graf Canada Ltd. in favour of Bank of Montreal;
11. Bank of Montreal Power of Attorney dated October 20, 2006 executed by Graf Canada Ltd. in favour of Bank of Montreal;
12. Notice of Intention to Give Security under Section 427 of the Bank Act dated October 6, 2015 granted by Graf Canada Ltd. in favour of Bank of Montreal;
13. Application for Credit and Promise to Give Bills of Lading, Warehouse Receipts or Security under Section 427 of the Bank Act dated October 21, 2015, executed by Graf Canada Ltd.;
14. Security under Section 427(1) of the Bank Act dated October 21, 2015, executed by Graf Canada Ltd.;
15. Deposit Pledge Agreement dated December 28, 2015 granted by Graf Canada Ltd. in favour of Bank of Montreal;

16. Consent and Non-disturbance Agreement dated January 29, 2016 between Graf Skates AG, Graf Canada Ltd. and Bank of Montreal; and
17. Assignment of Material Contracts and other rights dated January 29, 2016 granted by Graf Canada Ltd. in favour of Bank of Montreal.

Tab N

- 1 -

Exhibit "N" to the Affidavit of Hugh Devlin, sworn  
before me this 20<sup>th</sup> day of April, 2016.



---

Commission for Taking Affidavits, etc.

**CONSENT TO EARLIER ENFORCEMENT  
PURSUANT TO THE BANKRUPTCY AND INSOLVENCY ACT (CANADA)  
SECTION 244(2)**

**TO:           BANK OF MONTREAL**

**AND TO:    CASSELS BROCK & BLACKWELL LLP**

---

**GRAF CANADA LTD.** acknowledges receipt of a notice of intention to enforce security pursuant to section 244(1) of the *Bankruptcy and Insolvency Act* (Canada) dated April 15, 2016 delivered to it by Cassels Brock & Blackwell LLP on behalf of Bank of Montreal, and consents to the earlier enforcement by Bank of Montreal of the security referred to in the notice.

**DATED** April 18<sup>th</sup>, 2016.

**GRAF CANADA LTD.**

By

Name:

GAYLE ESTABROOKS

Title:

CEO & PRESIDENT



Tab O

- 1 -

Exhibit "O" to the Affidavit of Hugh Devlin, sworn  
before me this 20<sup>th</sup> day of April, 2016.

  
\_\_\_\_\_  
Commission for Taking Affidavits, etc.

Search ID#: Z07851518

**Transmitting Party**WEST-END REGISTRATIONS LICENSING & SEARCHES LTD.  
(P158)10011 170 STREET  
EDMONTON, AB T5P 4R5

Party Code: 50076967

Phone #: 780 483 8211

Reference #: 01290316-EEC806D9 29

Search ID #: Z07851518

Date of Search: 2016-Apr-19

Time of Search: 12:08:22

**Business Debtor Search For:**

GRAF CANADA LTD

Both Exact and Inexact Result(s) Found

**NOTE:**

A complete Search may result in a Report of Exact and Inexact Matches.

Be sure to read the reports carefully.



Search ID#: Z07851518

**Business Debtor Search For:**

GRAF CANADA LTD

Search ID #: Z07851518

Date of Search: 2016-Apr-19

Time of Search: 12:08:22

Registration Number: 06102309058

Registration Type: SECURITY AGREEMENT

Registration Date: 2006-Oct-23

Registration Status: Current

Expiry Date: 2016-Oct-23 23:59:59

Exact Match on: Debtor

No: 1

**Amendments to Registration**

11100519301

Renewal

2011-Oct-05

**Debtor(s)****Block****Status**

1 GRAF CANADA LTD.  
2308 PORTLAND STREET SE  
CALGARY, AB T2G 4M6

Current

**Secured Party / Parties****Block****Status**

1 BANK OF MONTREAL  
11TH FLOOR, 100 KING STREET WEST  
TORONTO, ON M5Y 1A1

Current

**Collateral: General****Block****Description****Status**

1 ALL PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY.

Current

**Particulars****Block****Additional Information****Status**

1

Current

Search ID#: Z07851518

ADDITIONAL INFORMATION: COMPLETE ADDRESS OF SECURED PARTY: BANK  
ON MONTREAL 11TH FLOOR, FIRST CANADIAN PLACE 100 KING STREET  
WEST TORONTO, ON M5Y 1A1

Search ID#: Z07851518

**Business Debtor Search For:**

GRAF CANADA LTD

Search ID #: Z07851518

Date of Search: 2016-Apr-19

Time of Search: 12:08:22

Registration Number: 06102309140

Registration Type: LAND CHARGE

Registration Date: 2006-Oct-23

Registration Status: Current

Registration Term: Infinity

Exact Match on: Debtor

No: 1

**Debtor(s)****Block****Status**

1 GRAF CANADA LTD.  
2308 PORTLAND STREET SE  
CALGARY, AB T2G 4M6

Current

**Secured Party / Parties****Block****Status**

1 BANK OF MONTREAL  
11TH FLOOR, 100 KING STREET WEST  
TORONTO, ON M5Y 1A1

Current

**Particulars****Block** **Additional Information****Status**

1 ADDITIONAL INFORMATION: COMPLETE ADDRESS OF SECURED PARTY: BANK  
OF MONTREAL 11TH FLOOR, FIRST CANADIAN PLACE 100 KING STREET  
WEST TORONTO, ON M5Y 1A1

Current

Search ID#: Z07851518

**Business Debtor Search For:**

GRAF CANADA LTD

Search ID #: Z07851518

Date of Search: 2016-Apr-19

Time of Search: 12:08:22

Registration Number: 12060702272

Registration Type: SECURITY AGREEMENT

Registration Date: 2012-Jun-07

Registration Status: Current

Expiry Date: 2016-Jun-07 23:59:59

Exact Match on: Debtor

No: 1

**Debtor(s)****Block****Status**

1 GRAF CANADA LTD.  
2308 PORTLAND STREET SE  
CALGARY, AB T2G4M6

Current

**Secured Party / Parties****Block****Status**

1 NATIONAL LEASING GROUP INC.  
1525 Buffalo Place  
WINNIPEG, MB R3T 1L9

Current

Phone #: 204 954 9000

Fax #: 204 954 9099

**Collateral: General****Block**      **Description****Status**

1 ALL TELEPHONE SYSTEMS & VOIP OF EVERY NATURE OR KIND DESCRIBED IN  
LEASE NUMBER 2583305 BETWEEN THE SECURED PARTY, AS LESSOR AND THE  
DEBTOR AS LESSEE, AS AMENDED FROM TIME TO TIME, TOGETHER WITH ALL  
ATTACHMENTS, ACCESSORIES AND SUBSTITUTIONS.

Current

Search ID#: Z07851518

**Business Debtor Search For:**

GRAF CANADA LTD

Search ID #: Z07851518

Date of Search: 2016-Apr-19

Time of Search: 12:08:22

Registration Number: 13120605476

Registration Type: SECURITY AGREEMENT

Registration Date: 2013-Dec-06

Registration Status: Current

Expiry Date: 2018-Dec-06 23:59:59

Exact Match on: Debtor

No: 1

Inexact Match on: Debtor

No: 2

**Debtor(s)****Block****Status**

1 GRAF CANADA LTD.  
2308 PORTLAND ST SE  
CALGARY, AB T2G4M6

Current

**Block****Status**

2 GRAF CANADA  
2308 PORTLAND ST SE  
CALGARY, AB T2G4M6

Current

**Secured Party / Parties****Block****Status**

1 NATIONAL LEASING GROUP INC.  
1525 Buffalo Place  
WINNIPEG, MB R3T 1L9

Current

Phone #: 204 954 9000

Fax #: 204 954 9099

**Collateral: General****Block****Description****Status**



Search ID#: Z07851518

1	ALL INDUSTRIAL AND MANUFACTURING EQUIPMENT-UNDERTRIMMER ZIGZAG MACHINE, AK LIFTER, THREAD TRIMMING, BACKTACK OF EVERY NATURE OR KIND DESCRIBED IN LEASE NUMBER 2643937 BETWEEN 7964927 CANADA INC. DBA LEASE PLUS FINANCIAL, AS ORIGINAL LESSOR AND THE DEBTOR, AS LESSEE, WHICH LEASE WAS ASSIGNED BY THE ORIGINAL LESSOR TO THE SECURED PARTY, AS AMENDED FROM TIME TO TIME, TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES AND SUBSTITUTIONS.	Current
---	--	---------

**Particulars**
**Block**    **Additional Information**
**Status**

1	Purchase Money Security Interest.	Current
---	-----------------------------------	---------

Search ID#: Z07851518

**Business Debtor Search For:**

GRAF CANADA LTD

Search ID #: Z07851518

Date of Search: 2016-Apr-19

Time of Search: 12:08:22

Registration Number: 15122406672

Registration Type: SECURITY AGREEMENT

Registration Date: 2015-Dec-24

Registration Status: Current

Expiry Date: 2020-Dec-24 23:59:59

Exact Match on: Debtor

No: 1

**Debtor(s)****Block****Status**

1 GRAF CANADA LTD.  
2308 PORTLAND STREET SE  
CALGARY, AB T2G 4M6

Current

**Secured Party / Parties****Block****Status**

1 BANK OF MONTREAL  
FIRST CANADIAN PLACE, 7TH FLOOR  
TORONTO, ON M5X 1A1

Current

**Collateral: General****Block****Description****Status**

1 ALL PROPERTY PLEDGED BY THE DEBTOR TO THE SECURED PARTY PURSUANT TO A DEPOSIT PLEDGE AGREEMENT BETWEEN THE DEBTOR AND THE SECURED PARTY, INCLUDING BUT NOT LIMITED TO THE GIC 0002-9680-484.  
PROCEEDS: ACCOUNTS, CHATTEL PAPER, MONEY, INTANGIBLES, GOODS, DOCUMENTS OF TITLE, INVENTORY, INSTRUMENTS AND SECURITIES (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INSURANCE PROCEEDS.

Current

Result Complete

RUN NUMBER : 110  
RUN DATE : 2016/04/19  
ID : 20160419151707.96

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 1  
( 10000)

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE CENTRAL OFFICE  
OF THE PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM IN RESPECT OF THE FOLLOWING:

TYPE OF SEARCH : BUSINESS DEBTOR

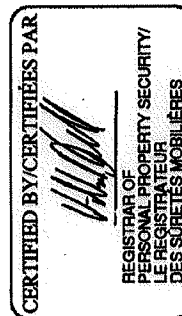
SEARCH CONDUCTED ON : GRAF CANADA LTD

FILE CURRENCY : 18APR 2016

ENQUIRY NUMBER 20160419151707.96 CONTAINS 3 PAGE(S), 1 FAMILY(IES).

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS WHICH SET OUT A BUSINESS DEBTOR NAME  
WHICH IS SIMILAR TO THE NAME IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE OTHER  
SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

ESC REF: 3395236  
ESC CORPORATE SERVICES LTD.  
445 KING STREET WEST, SUITE 400  
TORONTO ON M5V 1K4



(c) 13 09/2019

CONTINUED...



Ontario

REPORT : PSSR060  
PAGE : 2  
( 10001)

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

RUN NUMBER : 110  
 RUN DATE : 2016/04/19  
 ID : 20160419151707.96

TYPE OF SEARCH	BUSINESS DEBTOR
SEARCH CONDUCTED ON	GRAF CANADA LTD.
CURRENCY	18APR 2016

FOR THE CHAIRMAN OF THE BOARD OF DIRECTORS

FILE NUMBER  
7-12902-14

CATION FILM#	PAGE NO.	TOTAL PAGES	MAJOR VENTURE SCHEME	REGISTRATION NUMBER	COLLECTED COUNTER	PRESENTATION PERIOD
001	1			20151224-1059-6083-8731	P PPSA	5

02	DATE OF BIRTH	FIRST GIVEN NAME	SURNAME
03	BUSINESS NAME	GRAF CANADA LTD.	
04	ADDRESS	2308 PORTLAND STREET SE CALGARY	
		CONTACT INFORMATION NO. AB T2G 4M6	

05	DEBTOR	DATE OF BIRTH	FIRST GIVEN NAME	INITIAL	SURNAME	
06	NAME <th>BUSINESS NAME</th> <td colspan="4">ONTARIO CORPORATION NO.</td>	BUSINESS NAME	ONTARIO CORPORATION NO.			

08.	<b>SECURED PARTY -</b>	<b>BANK OF MONTREAL</b>	
09	<b>LITTON CLINTON</b>	<b>FIRST CANADIAN PLACE, 7TH FLOOR</b>	<b>TORONTO ON M5X 1A1</b>

COLLATERAL CLASSIFICATION	MOTOR VEHICLE	AMOUNT	DATE OF MATURITY	NO. FIXED IN RECEIPTY PRIN.
CONSUMER				
GOOD	INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED			

NAME	YEAR	MAKE	MODEL	PLATE
ALAN	1964	FORD	FORD	1964

II MOTOR  
12 VEHICLE

13 GENERAL

14	CONTAINMENT
15	DESCRIPTION

16 REGISTERING

17 445 KING STREET WEST, 4TH FL. TORONTO

\*\*\* FOR FURTHER INFORMATION CONTACT THE SECRETARY \*\*\*

\*\*\* FOR FURTHER INFORMATION CONTACT THE SECURED PARTY \*\*\*

CONTINUED... 3

**CERTIFIED BY/CERTIFIÉES PAR**

REGISTRAR OF  
PERSONAL PROPERTY SECURITY/  
LE REGISTREUR  
DES SÛRÉTÉS MOBILIÈRES

(cr1fs 08/2013)



PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

RUN NUMBER : 110  
RUN DATE : 2016/04/19  
ID : 20160419151707.96

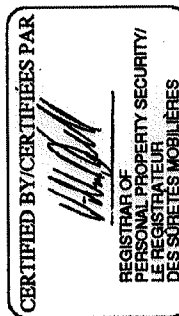
REPORT : PSSR060  
PAGE : 3  
( 10002)

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : GRAF CANADA LTD  
FILE CURRENCY : 18APR 2016

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

FILE NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER
712902114	20151224 1059 6083 8731		

1 REGISTRATION(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.



Tab P

- 1 -

Exhibit "P" to the Affidavit of High Devlin, sworn  
before me this 20th day of April, 2016.

A handwritten signature in blue ink, appearing to read "Paula Poller", is written over a horizontal line.

Commission for Taking Affidavits, etc.

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

APPLICANT

BANK OF MONTREAL

RESPONDENT

GRAF CANADA LTD.

DOCUMENT

APPLICATIONADDRESS FOR SERVICE AND CONTACT  
INFORMATION OF PARTY FILING THIS  
DOCUMENT

Cassels Brock &amp; Blackwell LLP

40 King Street West  
Suite 2100  
Toronto, Ontario  
M5H 3C2Attn: Larry Ellis  
Tel: 416-869-5406  
Fax: 416-640-3004  
E-mail: lellis@casselsbrock.com

Richter Advisory Group Inc., a licensed trustee, hereby consents to being appointed as receiver and manager of Graf Canada Ltd. in the within matter.

Dated at the City of Toronto, in the Province of ONTARIO, this 20<sup>th</sup> day of April, 2016.

RICHTER ADVISORY GROUP INC.

By: 

Name: ADAM SHERMAN  
Title: SENIOR VICE PRESIDENT



# Tab 3

Clerk's stamp:

COURT FILE NUMBER:

COURT OF QUEEN'S BENCH OF  
ALBERTA

JUDICIAL CENTRE OF

CALGARY

IN THE MATTER OF THE BANKRUPTCY AND  
INSOLVENCY OF GRAF CANADA LTD.

APPLICANT:

**BANK OF MONTREAL**

RESPONDENT(S):

**GRAF CANADA LTD.**

DOCUMENT:

**RECEIVERSHIP ORDER**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS DOCUMENT:

**Cassels Brock and Blackwell**  
40 King Street West  
Suite 2100, Scotia Plaza  
Toronto, Ontario  
M5H 3C2

Solicitor: Larry Ellis  
Telephone: 416-869-5406  
Facsimile: 416-640-3004  
Email: [lellis@casselsbrock.com](mailto:lellis@casselsbrock.com)  
File Number: 33336-356

**DATE ON WHICH ORDER WAS PRONOUNCED:** April 27, 2016

**NAME OF JUDGE WHO MADE THIS ORDER:** The Honourable Mr. Justice Jeffrey

**LOCATION OF HEARING:** Calgary, Alberta

**UPON** the application of Bank of Montreal (the "**Bank**") in respect of Graf Canada Ltd. (the "**Borrower**") for an order appointing Richter Advisory Group Inc. as receiver and manager over the assets, undertakings and properties of the Borrower; **AND UPON** having read the Application, the Affidavit of Hugh Devlin sworn April 20, 2016 (the "**Devlin Affidavit**"), filed; **AND UPON** reading the consent of Richter Advisory Group Inc. to act as interim receiver and receiver and manager ("**Receiver**") of the Debtor, filed; **AND UPON** review of the Devlin

Affidavit with Exhibits; **AND UPON** hearing counsel for the Bank; **IT IS HEREBY ORDERED AND DECLARED THAT:**

### **SERVICE**

1. The time for service of the notice of application for this order is hereby abridged and service thereof is deemed good and sufficient.

### **APPOINTMENT**

2. Pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (“**BIA**”), and sections 13(2) of the *Judicature Act*, R.S.A. 2000, c.J-2 Richter Advisory Group Inc. is hereby appointed Receiver, without security, of all of the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the “**Property**”).

### **RECEIVER'S POWERS**

3. The Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
  - (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
  - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
  - (c) to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part other business, or cease to perform any contracts of the Debtor;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to or by the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding, and provided further that nothing in this Order shall authorize the Receiver to defend or settle the action in which this Order is made unless otherwise directed by this Court;
- (k) to market any or all the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business;

- (i) without the approval of this Court in respect of any transaction not exceeding \$2,000,000.00, provided that the aggregate consideration for all such transactions does not exceed \$2,000,000.00; and
- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,

and in each such case notice under subsection 60(8) of the *Personal Property Security Act*, R.S.A. 2000, c. P-7 shall not be required.

- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. (i) The Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “Persons” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependant on maintaining possession) to the Receiver upon the Receiver's request.
5. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.
6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons

in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

7. No proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

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

8. No Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court, provided, however, that nothing in this Order shall: (i) prevent any Person from commencing a proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such proceeding is not commenced before the expiration of the stay provided by this paragraph 8; and (ii) affect a Regulatory Body’s investigation in respect of the debtor or an action, suit or proceeding that is taken in respect of the debtor by or before the Regulatory Body, other than the enforcement of a payment order by the Regulatory Body or the Court. “Regulatory Body” means a person or body that has

powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a province.

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

9. All rights and remedies (including, without limitation, set-off rights) against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” (as defined in the BIA), and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH THE RECEIVER**

10. No 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 the Debtor, without written consent of the Receiver or leave of this Court. Nothing in this Order shall prohibit any party to an eligible financial contract from closing out and terminating such contract in accordance with its terms.

#### **CONTINUATION OF SERVICES**

11. All Persons having oral or written agreements with the Debtor 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 Debtor 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 Receiver, and this Court directs that the Receiver shall be entitled to the continued use of the Debtor's current 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 Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

### **RECEIVER TO HOLD FUNDS**

12. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the “**Post Receivership Accounts**”) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

### **EMPLOYEES**

13. All employees of the Debtor are hereby terminated. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the Wage Earner Protection Program Act, S.C. 2005, c.47 (“**WEPPA**”).
14. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of

such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

15. (a) Notwithstanding anything in any federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:
- (i) before the Receiver's appointment; or
  - (ii) after the Receiver's appointment unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.
- (b) Nothing in sub-paragraph (a) exempts a Receiver from any duty to report or make disclosure imposed by a law referred to in that sub-paragraph.
- (c) Notwithstanding anything in any federal or provincial law, but subject to sub-paragraph (a) hereof, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, the Receiver is not personally liable for failure to comply with the order, and is not personally liable for any costs that are or would be incurred by any person in carrying out the terms of the order,
- (i) if, within such time as is specified in the order, within 10 days after the order is made if no time is so specified, within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, or during the period of the stay referred to in clause (ii) below, the Receiver:

- A. complies with the order, or
  - B. on notice to the person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;
- (ii) during the period of a stay of the order granted, on application made within the time specified in the order referred to in clause (i) above, within 10 days after the order is made or within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, by,
- A. the court or body having jurisdiction under the law pursuant to which the order was made to enable the Receiver to contest the order; or
  - B. the court having jurisdiction in bankruptcy for the purposes of assessing the economic viability of complying with the order; or
- (iii) if the Receiver had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

16. Except for gross negligence or wilful misconduct, as a result of its appointment or carrying out the provisions of this Order the Receiver shall incur no liability or obligation that exceeds an amount for which it may obtain full indemnity from the Property. Nothing in this Order shall derogate from any limitation on liability or other protection afforded to the Receiver under any applicable law, including, without limitation, Section 14.06, 81.4(5) or 81.6(3) of the BIA.

#### **RECEIVER'S ACCOUNTS**

17. The Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case, incurred at their standard rates and charges. The Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the

“**Receiver’s Charge**”) on the Property, as security for such fees and disbursements, incurred both before and after the making of this Order in respect of these proceedings, and the Receiver’s Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person but subject to section 14.06(7), 81.4(4) and 81.6(2) of the BIA.

18. The Receiver and its legal counsel shall pass their accounts from time to time.
19. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including the legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

20. The Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “Receiver’s Borrowings Charge”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges set out in sections 14.06(7), 81.4(4) and 81.6(2) of the BIA.
21. Neither the Receiver’s Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

22. The Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “A” hereto (the “Receiver's Certificates”) for any amount borrowed by it pursuant to this Order.
23. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

### **ALLOCATION**

24. Any interested party may apply to this Court on notice to any other party likely to be affected, for an order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the various assets comprising the Property.

### **GENERAL**

25. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
26. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Receiver will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence.
27. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.
28. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

29. The Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
30. The Plaintiff shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.
31. Any interested party may apply to this Court to vary or amend this Order on not less than 7 days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

## **FILING**

32. This Order is issued and shall be filed in Court of Queen's Bench Action No. ●, and Court of Queen's Bench in Bankruptcy Action No. ●, which actions are not consolidated. All further proceedings shall be taken in both actions unless otherwise ordered.
  33. The Receiver shall establish and maintain a website in respect of these proceedings at <http://www.richter.ca/en/folder/insolvency-cases/g/graf-canada-ltd> and shall post there as soon as practicable:
    - (a) all materials prescribed by statute or regulation to be made publically available; and
    - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, or served upon it, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.
-

Justice of the Court of Queen's Bench of Alberta

**SCHEDULE "A"**

**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that [RECEIVER'S NAME], the interim receiver and receiver and manager (the "Receiver") of all of the assets, undertakings and properties of [DEBTOR'S NAME] appointed by Order of the Court of Queen's Bench of Alberta and Court of Queen's Bench of Alberta in Bankruptcy and Insolvency (collectively, the "Court") dated the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (the "Order") made in action numbers \_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$\_\_\_\_\_, being part of the total principal sum of \$\_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily] [monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at ●.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property) as authorized by the Order and as authorized by any further or other order of the Court.



7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[RECEIVER'S NAME], solely in its capacity  
as Receiver of the Property (as defined in the  
Order), and not in its personal capacity

Per: \_\_\_\_\_  
Name:  
Title:

# Tab 4

~~Last Revised: December 2012~~

Clerk's stamp:

COURT FILE NUMBER:

~~{Number}~~COURT OF QUEEN'S BENCH OF  
ALBERTA

JUDICIAL CENTRE OF ●

CALGARYIN THE MATTER OF THE BANKRUPTCY AND  
INSOLVENCY OF ~~{THE DEBTOR}~~ GRAF  
CANADA LTD.

APPLICANT:

BANK OF MONTREAL

RESPONDENT(S):

GRAF CANADA LTD.DOCUMENT: ~~ALBERTA TEMPLATE~~  
**RECEIVERSHIP ORDER**ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS DOCUMENT:Cassels Brock and Blackwell  
40 King Street West  
Suite 2100, Scotia Plaza  
Toronto, Ontario  
M5H 3C2Solicitor: Larry Ellis  
Telephone: 416-869-5406  
Facsimile: 416-640-3004  
Email: [lellis@casselsbrock.com](mailto:lellis@casselsbrock.com)  
File Number: 33336-356DATE ON WHICH ORDER WAS PRONOUNCED:April 27, 2016NAME OF JUDGE WHO MADE THIS ORDER:The Honourable Mr. Justice JeffreyLOCATION OF HEARING:Calgary, Alberta~~{LAW FIRM NAME}~~~~{Address}~~~~{Address}~~~~Solicitor: ●-~~~~Telephone: ●-~~~~Facsimile: ●-~~

Email: ●

File Number: ●

**DATE ON WHICH ORDER WAS PRONOUNCED:** ●

**NAME OF JUDGE WHO MADE THIS ORDER:** ●

**LOCATION OF HEARING:** ●

**~~[\*NOTE: DO NOT USE THIS ORDER AS A PRECEDENT WITHOUT REVIEWING THE ACCOMPANYING EXPLANATORY NOTES.]~~**

UPON the application of ~~[NAME]~~ in respect of ~~[THE DEBTOR]~~ Bank of Montreal (the “Bank”) in respect of Graf Canada Ltd. (the “Borrower”) for an order appointing Richter Advisory Group Inc. as receiver and manager over the assets, undertakings and properties of the Borrower; AND UPON having read the Application, the Affidavit of ~~\*~~; ~~and the Affidavit of Service of \*~~ ~~[if applicable]~~ Hugh Devlin sworn April 20, 2016 (the “Devlin Affidavit”), filed; AND UPON reading the consent of ~~\*~~ Richter Advisory Group Inc. to act as interim receiver and receiver and manager (“Receiver”) of the Debtor, filed; AND UPON ~~noting the consent endorsed hereon of \*~~ ~~[if applicable]~~ review of the Devlin Affidavit with Exhibits; AND UPON hearing counsel for ~~\*~~ the Bank; IT IS HEREBY ORDERED AND DECLARED THAT:

## SERVICE

1. The time for service of the notice of application for this order is hereby abridged and service thereof is deemed good and sufficient.

## APPOINTMENT

2. Pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (“BIA”), and sections 13(2) of the *Judicature Act*, R.S.A. 2000, c.J-2, ~~99(a) of the Business Corporations Act, R.S.A. 2000, c.B-9, and 65(7) of the Personal Property Security Act, R.S.A. 2000, c.P-7 (choose applicable statute(s))~~ ~~[RECEIVER'S NAME]~~ 2. Richter Advisory Group Inc. is hereby appointed Receiver, without security, of all of the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the “Property”).

## RECEIVER'S POWERS

3. The Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
  - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
  - (c) to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part other business, or cease to perform any contracts of the Debtor;
  - (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
  - (e) to purchase or lease machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
  - (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
  - (g) to settle, extend or compromise any indebtedness owing to or by the Debtor;

- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding, and provided further that nothing in this Order shall authorize the Receiver to defend or settle the action in which this Order is made unless otherwise directed by this Court.;
- (k) to market any or all the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate.;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business.;
- (i) without the approval of this Court in respect of any transaction not exceeding \$                    ~~2,000,000.00~~ provided that the aggregate consideration for all such transactions does not exceed \$                    ~~2,000,000.00~~; and
- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,

and in each such case notice under subsection 60(8) of the *Personal Property Security Act*, R.S.A. 2000, c. P-7 shall not be required.

- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. (i) The Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing,

collectively, being “Persons” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependant on maintaining possession) to the Receiver upon the Receiver's request.

5. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.
6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any



computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

7. No proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

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

8. No Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court, provided, however, that nothing in this Order shall: (i) prevent any Person from commencing a proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such proceeding is not commenced before the expiration of the stay provided by this paragraph 8; and (ii) affect a Regulatory Body’s investigation in respect of the debtor or an action, suit or proceeding that is taken in respect of the debtor by or before the Regulatory Body, other than the enforcement of a payment order by the Regulatory Body or the Court. “Regulatory Body” means a person or body that has powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a province.

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

9. All rights and remedies (including, without limitation, set-off rights) against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however ~~that this stay and suspension does not apply in respect of any “eligible financial contract” (as defined in the BIA), and further provided~~ ~~that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is~~

not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

## **NO INTERFERENCE WITH THE RECEIVER**

10. No 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 the Debtor, without written consent of the Receiver or leave of this Court.  
~~Nothing in this Order shall prohibit any party to an eligible financial contract from closing out and terminating such contract in accordance with its terms.~~ ~~See~~  
~~Explanatory Notes.~~

## **CONTINUATION OF SERVICES**

11. All Persons having oral or written agreements with the Debtor 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 Debtor 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 Receiver, and this Court directs that the Receiver shall be entitled to the continued use of the Debtor's current 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 Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

## **RECEIVER TO HOLD FUNDS**

12. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source

whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the “**Post Receivership Accounts**”) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

## EMPLOYEES

13. ~~Subject to All employees’ rights to terminate their employment, all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor’s behalf, may terminate the employment of such employees.~~ of the Debtor are hereby terminated. The Receiver shall not ~~be~~ liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the Wage Earner Protection Program Act, S.C. 2005, c.47 (“**WEPPA**”).
14. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

**LIMITATION ON ENVIRONMENTAL LIABILITIES**

15. (a) Notwithstanding anything in any federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:
- (i) before the Receiver's appointment; or
  - (ii) after the Receiver's appointment unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.
- (b) Nothing in sub-paragraph (a) exempts a Receiver from any duty to report or make disclosure imposed by a law referred to in that sub-paragraph.
- (c) Notwithstanding anything in any federal or provincial law, but subject to sub-paragraph (a) hereof, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, the Receiver is not personally liable for failure to comply with the order, and is not personally liable for any costs that are or would be incurred by any person in carrying out the terms of the order,
- (i) if, within such time as is specified in the order, within 10 days after the order is made if no time is so specified, within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, or during the period of the stay referred to in clause (ii) below, the Receiver:
    - A. complies with the order, or
    - B. on notice to the person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;
  - (ii) during the period of a stay of the order granted, on application made within the time specified in the order referred to in clause (i) above, within

10 days after the order is made or within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, by,

- A. the court or body having jurisdiction under the law pursuant to which the order was made to enable the Receiver to contest the order; or
  - B. the court having jurisdiction in bankruptcy for the purposes of assessing the economic viability of complying with the order; or
- (iii) if the Receiver had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

16. Except for gross negligence or wilful misconduct, as a result of its appointment or carrying out the provisions of this Order the Receiver shall incur no liability or obligation that exceeds an amount for which it may obtain full indemnity from the Property. Nothing in this Order shall derogate from any limitation on liability or other protection afforded to the Receiver under any applicable law, including, without limitation, Section 14.06, 81.4(5) or 81.6(3) of the BIA.

#### **RECEIVER'S ACCOUNTS**

17. The Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case, incurred at their standard rates and charges. The Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the “**Receiver’s Charge**”) on the Property, as security for such fees and disbursements, incurred both before and after the making of this Order in respect of these proceedings, and the Receiver’s Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person but subject to section 14.06(7), 81.4(4) and 81.6(2) ~~and 88~~ of the BIA. ~~{See Explanatory Notes.}~~

18. The Receiver and its legal counsel shall pass their accounts from time to time.
19. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including the legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

20. The Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges set out in sections 14.06(7), 81.4(4) and 81.6(2) ~~and 88~~ of the BIA.
21. Neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
22. The Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

23. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

#### **ALLOCATION**

24. Any interested party may apply to this Court on notice to any other party likely to be affected, for an order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the various assets comprising the Property.

#### **GENERAL**

25. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
26. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Receiver will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence.
27. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.
28. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
29. The Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Receiver is

authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

30. The Plaintiff shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.
31. Any interested party may apply to this Court to vary or amend this Order on not less than 7 days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

## FILING

32. This Order is issued and shall be filed in Court of Queen's Bench Action No. ~~★~~●, and Court of Queen's Bench in Bankruptcy Action No. ~~★~~●, which actions are not consolidated. All further proceedings shall be taken in both actions unless otherwise ordered. ~~{See Explanatory Notes, footnote 1.}~~
33. The Receiver shall establish and maintain a website in respect of these proceedings at ~~{insert website address}~~<http://www.richter.ca/en/folder/insolvency-cases/g/graf-canada-ltd> and shall post there as soon as practicable:
  - (a) all materials prescribed by statute or regulation to be made publically available; and
  - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, or served upon it, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.



**SCHEDULE "A"**

**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that [RECEIVER'S NAME], the interim receiver and receiver and manager (the "Receiver") of all of the assets, undertakings and properties of [DEBTOR'S NAME] appointed by Order of the Court of Queen's Bench of Alberta and Court of Queen's Bench of Alberta in Bankruptcy and Insolvency (collectively, the "Court") dated the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (the "Order") made in action numbers \_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$\_\_\_\_\_, being part of the total principal sum of \$\_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily] [monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at ●.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property) as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[RECEIVER'S NAME], solely in its capacity  
as Receiver of the Property (as defined in the  
Order), and not in its personal capacity

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

Name:

Title:

Document comparison by Workshare Compare on Wednesday, April 20, 2016  
10:37:28 AM

Input:	
Document 1 ID	interwovenSite://CASSELS-DMS/Legal/25646016/1
Description	#25646016v1<Legal> - Template Initial Order - Alberta
Document 2 ID	interwovenSite://CASSELS-DMS/Legal/25646136/2
Description	#25646136v2<Legal> - Receiveship Order (Alberta) Graf (CBB draft April 19 16)
Rendering set	Standard

Legend:	
<u>Insertion</u>	
<del>Deletion</del>	
<del>Moved from</del>	
<u>Moved to</u>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	32
Deletions	48
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	80