

This is Exhibit "O" referred to in the affidavit  
of MATTHEW MCBRIDE, SWORN BEFORE ME  
this 4th day of March 2019

  
A COMMISSIONER FOR TAKING AFFIDAVIT

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Financial statements of  
**Green Earth Stores Ltd.**

September 30, 2018

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Draft

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## Independent Practitioner's Review Engagement Report

To the shareholders of  
Green Earth Stores Ltd.

We have reviewed the accompanying financial statements of Green Earth Stores Ltd. that comprise the balance sheet as at September 30, 2018, and the statements of loss, deficit and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

### Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian accounting standards for private enterprises, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

### Practitioner's Responsibility

Our responsibility is to express a conclusion on the accompanying financial statements based on our review. We conducted our review in accordance with Canadian generally accepted standards for review engagements, which require us to comply with relevant ethical requirements.

A review of financial statements in accordance with Canadian generally accepted standards for review engagements is a limited assurance engagement. The practitioner performs procedures, primarily consisting of making inquiries of management and others within the entity, as appropriate, and applying analytical procedures, and evaluates the evidence obtained.

The procedures performed in a review are substantially less in extent than, and vary in nature from, those performed in an audit conducted in accordance with Canadian generally accepted auditing standards. Accordingly, we do not express an audit opinion on these financial statements.

### Conclusion

Based on our review, nothing has come to our attention that causes us to believe that the financial statements do not present fairly, in all material respects, the financial position of Green Earth Stores Ltd. as at September 30, 2018, and the results of its operations and its cash flows for the year then ended in accordance with Canadian accounting standards for private enterprises.

### Emphasis of matter

Without qualifying our conclusion, we draw attention to Note 2 in the financial statements which indicates that the Company incurred a net loss of \$2,018,418 during the year ended September 30, 2018 and, as of that date, the Company's current liabilities exceeded its current assets by \$3,245,901. These conditions, along with other matters as set forth in Note 2, indicate the existence of a material uncertainty that may cast significant doubt about the Company's ability to continue as a going concern.

Chartered Professional Accountants  
Licensed Public Accountants  
February 15, 2019

Member of Deloitte Touche Tohmatsu Limited

**Statement of loss and deficit**

Year ended September 30, 2018

(Unaudited)

|   | Notes | <b>2018</b>        | 2017        |
|---|-------|--------------------|-------------|
|   |       | <b>\$</b>          | <b>\$</b>   |
| Sales   | 9     | <b>9,744,974</b>   | 10,403,988  |
| Cost of goods sold  | 5     | <b>9,240,170</b>   | 6,744,804   |
| Gross profit  |       | <b>504,804</b>     | 3,659,184   |
| <b>Expenses</b>   |       |                    |             |
| Wages and benefits  |       | <b>1,779,130</b>   | 2,137,788   |
| Amortization  | 6     | <b>305,048</b>     | 186,266     |
| Office and general  |       | <b>197,184</b>     | 508,436     |
| Professional fees   |       | <b>172,312</b>     | 72,492      |
| Bank charges and interest                                       |       | <b>118,068</b>     | 100,151     |
| Rent and realty taxes   |       | <b>84,174</b>      | 107,314     |
| Utilities   |       | <b>78,623</b>      | 81,628      |
| Repairs and maintenance   |       | <b>78,177</b>      | 248,748     |
| Advertising and promotion                                       |       | <b>48,416</b>      | 24,848      |
| Equipment rental  |       | <b>26,891</b>      | 38,711      |
| Automotive and travel   |       | <b>24,698</b>      | 70,196      |
| Insurance   |       | <b>16,831</b>      | 27,565      |
| Telephone   |       | <b>7,914</b>       | 15,119      |
|   |       | <b>2,937,466</b>   | 3,619,262   |
| (Loss) earnings before other income (expenses) and income taxes |       | <b>(2,432,662)</b> | 39,922      |
| <b>Other income (expenses)</b>                                  |       |                    |             |
| Gain on disposal of property, plant and equipment               |       | -                  | 422,128     |
| Interest and miscellaneous                                      |       | <b>8,689</b>       | 12,553      |
| Foreign exchange loss   |       | <b>(129,640)</b>   | (45,160)    |
|   |       | <b>(120,951)</b>   | 389,521     |
| (Loss) earnings before income taxes                             |       | <b>(2,553,613)</b> | 429,443     |
| Income tax (recovery) expense                                   | 14    | <b>(535,195)</b>   | 108,203     |
| Net (loss) earnings   |       | <b>(2,018,418)</b> | 321,240     |
| Retained earnings, beginning of year                            |       | <b>349,954</b>     | 1,260,224   |
| Refundable taxes recovered                                      |       | -                  | 28,714      |
| Dividends paid  |       | <b>(349,954)</b>   | (1,260,224) |
| <b>(Deficit) retained earnings, end of year</b>                 |       | <b>(2,018,418)</b> | 349,954     |

The accompanying notes are an integral part of the financial statements.

**Balance sheet**

As at September 30, 2018

(Unaudited)

|  | Notes | 2018<br>\$         | 2017<br>\$ |
|--|-------|--------------------|------------|
| <b>Assets</b>                            |       |                    |            |
| Current assets                           |       |                    |            |
| Accounts receivable                      | 4     | 52,347             | 63,688     |
| Government remittances recoverable       |       | 48,818             | 85,876     |
| Income taxes recoverable                 |       | 616,826            | 298,943    |
| Inventory                                | 5     | 6,036,683          | 8,299,544  |
| Prepaid expenses                         |       | 213,930            | 165,922    |
| Due from directors                       | 9     | -                  | 3,309      |
|  |       | <b>6,968,604</b>   | 8,917,282  |
| Property, plant and equipment            | 6     | <b>4,274,712</b>   | 4,570,076  |
|  |       | <b>11,243,316</b>  | 13,487,358 |
| <b>Liabilities</b>                       |       |                    |            |
| Current liabilities                      |       |                    |            |
| Bank indebtedness                        | 7     | 511,422            | 422,726    |
| Accounts payable and accrued liabilities | 15    | 1,955,177          | 2,035,398  |
| Due to related parties                   | 9     | 6,764,511          | 7,369,234  |
| Term loan                                | 10    | 850,000            | -          |
| Current portion of long-term debt        | 11    | 133,395            | 171,250    |
|  |       | <b>10,214,505</b>  | 9,998,608  |
| Long-term debt                           | 11    | <b>3,047,129</b>   | 3,138,696  |
|  |       | <b>13,261,634</b>  | 13,137,304 |
| <b>Shareholders' (deficiency) equity</b> |       |                    |            |
| Share capital                            | 12    | 100                | 100        |
| (Deficit) retained earnings              |       | (2,018,418)        | 349,954    |
|  |       | <b>(2,018,318)</b> | 350,054    |
|  |       | <b>11,243,316</b>  | 13,487,358 |

The accompanying notes are an integral part of the financial statements.

Approved by the Board

\_\_\_\_\_, Director

\_\_\_\_\_, Director



**Statement of cash flows**

Year ended September 30, 2018

(Unaudited)

|   | Notes | 2018<br>\$         | 2017<br>\$  |
|---|-------|--------------------|-------------|
| <b>Operating activities</b>                             |       |                    |             |
| Net (loss) earnings                                     |       | <b>(2,018,418)</b> | 321,240     |
| Items not affecting cash:                               |       |                    |             |
| Amortization  | 6     | <b>305,048</b>     | 186,266     |
| Gain on disposal of plant, property and equipment       |       | -                  | (422,128)   |
|   |       | <b>(1,713,370)</b> | 85,378      |
| Changes in non-cash operating working capital items     | 13    | <b>1,865,146</b>   | (766,519)   |
|   |       | <b>151,776</b>     | (681,141)   |
| <b>Investing activities</b>                             |       |                    |             |
| Purchase of property, plant and equipment               |       | <b>(53,799)</b>    | (4,716,704) |
| Proceeds from disposal of property, plant and equipment |       | <b>44,117</b>      | 1,017,990   |
|   |       | <b>(9,682)</b>     | (3,698,714) |
| <b>Financial activities</b>                             |       |                    |             |
| Increase in bank indebtedness                           |       | <b>88,696</b>      | 422,726     |
| Advances (to) from related parties                      |       | <b>(604,723)</b>   | 1,107,808   |
| Advances from (to) directors                            |       | <b>3,309</b>       | (1,639)     |
| Dividends paid  |       | <b>(349,954)</b>   | (1,260,224) |
| (Repayment) proceeds from long-term debt                |       | <b>(129,422)</b>   | 3,309,946   |
| Proceeds from term loan                                 |       | <b>850,000</b>     | -           |
| Refundable taxes  |       | -                  | 28,714      |
|   |       | <b>(142,094)</b>   | 3,607,331   |
| Net increase (decrease) in cash                         |       | -                  | (772,524)   |
| Cash, beginning of year                                 |       | -                  | 772,524     |
| <b>Cash, end of year</b>                                |       | <b>-</b>           | <b>-</b>    |

The accompanying notes are an integral part of the financial statements.

**Green Earth Stores Ltd.**  
**Notes to the financial statements**

September 30, 2018  
(Unaudited)

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**1. Description of the business**

Green Earth Stores Ltd. (the "Company"), was incorporated under the *Business Corporations Act* (Ontario). The Company provides purchasing, warehousing and administrative functions to Green Earth Environmental Products ("GEEP"), an affiliate with common ownership. GEEP is a retailer with several mall locations throughout Ontario, Canada.

**2. Going concern**

The financial statements were prepared on a going concern basis. The going concern basis assumes that the Company will continue to operate for the foreseeable future and will be able to realize its assets and discharge its liabilities and commitments in the normal course of business.

At September 30, 2018, there exists a material uncertainty that may cast significant doubt on the Company's ability to continue as a going concern. During the year ended September 30, 2018, the Company had a net loss of \$2,018,418, and negative working capital of \$3,245,901.

Historically the Company has had negative cash flows from operations and working capital deficiencies. Whether, and when, the Company can attain profitability and generate positive cash flows from operations is uncertain. The Company is also uncertain as to whether it can obtain financing to meet its current obligations. These uncertainties may cast significant doubt upon the Company's ability to continue as a going concern. The Company will need to raise capital in order to fund its operations. This need may be adversely impacted by uncertain market conditions. To address its financing requirements, the Company is currently investigating restructuring plans for the upcoming year to help identify where it can reduce expenses in order to increase overall profitability. The outcome of these matters cannot be predicted at this time.

If the going concern assumption were not appropriate for these financial statements, adjustments would be necessary in the carrying value of assets and liabilities, the reported net loss and the balance sheet classifications used:

**3. Significant accounting policies**

The financial statements have been prepared in accordance with *Canadian accounting standards for private enterprises* and reflect the following significant accounting policies:

*Financial instruments*

Financial assets and financial liabilities are initially recognized at fair value when the Company becomes a party to the contractual provisions of the financial instrument. Subsequently, all financial instruments are measured at amortized cost.

Transaction costs related to financial instruments measured subsequent to initial recognition at fair value are expensed as incurred. Transaction costs related to other financial instruments are added to the carrying value of the asset or netted against the carrying value of the liability and are then recognized over the expected life of the instrument using the effective interest method. Any premium or discount related to an instrument measured at amortized cost is amortized over the expected life of the item using the effective interest method and recognized in net earnings as interest income or expense.

With respect to financial assets measured at cost or amortized cost, the Company recognizes an impairment loss, if any, in net earnings when there are indicators of impairment and it determines that a significant adverse change has occurred during the period in the expected timing or amount of future cash flows. When the extent of impairment of a previously written-down asset decreases and the decrease can be related to an event occurring after the impairment was recognized, the previously recognized impairment loss is reversed to net



### 3. Significant accounting policies (continued)

*Financial instruments (continued)*  
earnings in the period the reversal occurs.

#### *Inventory*

Inventory (consisting entirely of finished goods) is measured at the lower of cost and net realizable value, with cost assigned by using the weighted average cost formula. Cost comprises the purchase price plus costs to get the inventories to their present location and condition. Cost of sales reported on the statement of loss and deficit includes the cost of inventory recognized as an expense in the period in which the related revenue is recognized. Net realizable value is the estimated selling price less the estimated costs necessary to make the sale. Due to the nature of the business, there is no overhead allocation, only direct purchase costs.

#### *Property, plant and equipment*

Property, plant and equipment are recorded at cost. Amortization is based on the following methods:

|                         |                     |      |
|-------------------------|---------------------|------|
| Building                | Diminishing balance | 4%   |
| Computer equipment      | Diminishing balance | 55%  |
| Furniture and equipment | Diminishing balance | 20%  |
| Computer software       | Diminishing balance | 100% |

#### *Impairment of long-lived assets*

Long-lived assets such as property, plant and equipment are tested for recoverability whenever events or changes in circumstances indicate that their carrying amount may not be recoverable. An impairment loss is recognized when their carrying value exceeds the total undiscounted cash flows expected from the use and eventual disposition of the item. The amount of the impairment loss is determined as the excess of the carrying value of the asset over its fair value at the date of impairment.

#### *Income taxes*

The Company follows the taxes payable method of accounting for income taxes. Under this method, only current income taxes payable or recoverable for the period, determined in accordance with the rules established by taxation authorities, are recognized as an expense or recovery.

#### *Revenue recognition*

The Company recognizes revenue when persuasive evidence of an arrangement exists, delivery has occurred, the price to the buyer is fixed or determinable and collection is reasonably assured.

#### *Use of estimates*

The preparation of financial statements in conformity with Canadian accounting standards for private enterprises requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Key components of the financial statements requiring management to make estimates include the appropriateness of the use of the going concern

**Green Earth Stores Ltd.**  
**Notes to the financial statements**  
September 30, 2018  
(Unaudited)

**3. Significant accounting policies (continued)**

*Use of estimates (continued)*

assumption, the provision for doubtful accounts in respect of accounts receivable, the cost and net realizable value of inventory, the useful lives of long-lived assets, and income taxes. Actual results could differ from these estimates.

*Foreign currency translation*

Monetary assets and liabilities denominated in foreign currencies are translated at the exchange rates in effect at the balance sheet date. Non-monetary assets and liabilities are translated at historical rates. Revenues and expenses are translated at average rates for the year except for amortization, which is translated at historical rates. Translation gains or losses are included in earnings.

**4. Accounts receivable**

|                   | <b>2018</b>   | 2017   |
|-------------------|---------------|--------|
|                   | \$            | \$     |
| Trade receivables | <b>52,247</b> | 62,103 |
| Other receivables | <b>100</b>    | 1,585  |
|                   | <b>52,347</b> | 63,688 |

**5. Inventory**

|                            | <b>2018</b>        | 2017      |
|----------------------------|--------------------|-----------|
|                            | \$                 | \$        |
| Finished goods             | <b>8,592,983</b>   | 8,600,548 |
| Provision for obsolescence | <b>(2,556,300)</b> | (301,004) |
|                            | <b>6,036,683</b>   | 8,299,544 |

During the year, the inventory recognized as an expense for obsolescence within cost of sales amounted to \$2,255,296 (\$97,841 in 2017). Inventory recognized as expense during the year \$6,984,874 (\$ 6,646,963 in 2017)

**6. Property, plant and equipment**

|                         | <b>Cost</b>      | <b>Accumulated<br/>amortization</b> | <b>2018<br/>Net book<br/>value</b> | 2017<br>Net book<br>value |
|-------------------------|------------------|-------------------------------------|------------------------------------|---------------------------|
|                         | \$               | \$                                  | \$                                 | \$                        |
| Land                    | <b>685,000</b>   | -                                   | <b>685,000</b>                     | 685,000                   |
| Building                | <b>3,221,270</b> | <b>196,350</b>                      | <b>3,024,920</b>                   | 3,195,992                 |
| Computer equipment      | <b>491,836</b>   | <b>455,656</b>                      | <b>36,180</b>                      | 80,402                    |
| Furniture and equipment | <b>820,129</b>   | <b>291,517</b>                      | <b>528,612</b>                     | 600,241                   |
| Computer software       | <b>42,369</b>    | <b>42,369</b>                       | -                                  | 8,441                     |
|                         | <b>5,260,604</b> | <b>985,892</b>                      | <b>4,274,712</b>                   | 4,570,076                 |

During the year, the company recorded amortization expense of \$305,048 (2017 - \$186,266).

## **7. Bank indebtedness**

The bank indebtedness consist of an approved operating line of credit up to \$750,000 which bears interest at the bank's prime rate plus 0.50% per annum of which \$340,000 remained unused at September 30, 2018.

Other credit facilities of the Company consist of the following:

1. Leases facility (non-revolving) in the amount of \$1,000,000 under terms of separate agreements, of which \$1,000,000 remained unused at September 30, 2018.

All borrowings are secured by the following:

- a) general security agreement constituting a first ranking security interest in all personal property of the borrower;
- b) collateral mortgage in the amount of \$3,425,000, constituting a first fixed charge on the lands and improvements located at 19-23 Buchanan Court, London, Ontario;
- c) guarantee and postponement of claim in the amount of \$633,148 signed by Matthew McBride Enterprises Corp.;
- d) guarantee and postponement of claim in the amount of \$633,148 signed by Beckstette Enterprises Corp.;
- e) guarantee and postponement of claim in the amount of \$1,150,000 signed by Green Earth Environmental Products;
- f) guarantee and postponement of claim in the amount of \$4,575,000 signed by Green Earth Environmental Products;
- g) postponement and assignment of claim signed by Matthew McBride Enterprises Corp.;
- h) postponement and assignment of claim signed by Beckstette Enterprises Corp.

## **8. Contingencies**

The Company has issued a corporate guarantee to the bank in the amount of up to \$1,071,000 for any bank indebtedness of its sister company, Green Earth Environmental Products.



**Green Earth Stores Ltd.**  
**Notes to the financial statements**  
September 30, 2018  
(Unaudited)

**9. Related party transactions**

*Due from directors*

The amounts due from directors are non-interest bearing, unsecured and have no fixed terms of repayment.

*Due to related parties*

|                                    | <b>2018</b>             | 2017             |
|------------------------------------|-------------------------|------------------|
|                                    | <b>\$</b>               | \$               |
| Green Earth Environmental Products | <b>1,879,268</b>        | 2,819,672        |
| Matthew McBride Enterprises Corp.  | <b>2,447,857</b>        | 2,278,351        |
| Beckstette Enterprises Corp.       | <b>2,437,386</b>        | 2,271,211        |
|                                    | <b><u>6,764,511</u></b> | <u>7,369,234</u> |

The related parties are related to the Company through common ownership by the shareholders and individuals.

The amount outstanding are non-interest bearing, secured and have no fixed terms of repayment.

*Related party transactions*

Related party transactions not disclosed elsewhere in the financial statements are as follows:

|   | <b>2018</b>             | 2017             |
|---|-------------------------|------------------|
|   | <b>\$</b>               | \$               |
| Sales to Green Earth Environmental Products | <b>8,690,004</b>        | 9,280,933        |
|   | <b><u>8,690,004</u></b> | <u>9,280,933</u> |

The company has transactions in the normal course of business. The transactions are measured at exchange amounts.

**10. Term loan**

The Company has an authorized variable rate term loan (non-revolving) of \$1,000,000 which bears interest at the bank's prime rate plus 0.65% per annum of which \$150,000 remained unused at year-end. The loan has a twelve-month term and all outstanding principal and interest is payable in full August 2019. The bank loan is secured by the same items as outlined in Note 7 above.

Subsequent to year end September 30, 2018, the bank loan was repaid in full.



**Green Earth Stores Ltd.**  
**Notes to the financial statements**  
September 30, 2018  
(Unaudited)

**11. Long-term debt**

|  | <b>2018</b>      | 2017      |
|--|------------------|-----------|
|  | <b>\$</b>        | \$        |
| RBC fixed rate term loan (non-revolving), bearing interest at 3.09% per annum, repayable in monthly blended instalments of \$19,156.53 combined principal and interest, and due October 11, 2021 | <b>3,180,524</b> | 3,309,946 |
| Current portion of long-term debt  | <b>(133,395)</b> | (171,250) |
|  | <b>3,047,129</b> | 3,138,696 |

Principal payments required in each of the next two years and thereafter are as follows:  
\$

|      |                  |
|------|------------------|
| 2019 | 133,395          |
| 2020 | 137,576          |
| 2021 | 2,909,553        |
|      | <b>3,180,524</b> |

The above borrowings are secured by the following:

- a) general security agreement constituting a first ranking security interest in all personal property of the borrower;
- b) collateral mortgage in the amount of \$3,425,000, constituting a first fixed charge on the lands and improvements located at 19-23 Buchanan Court, London, Ontario;
- c) guarantee and postponement of claim in the amount of \$633,148 signed by Matthew McBride Enterprises Corp.;
- d) guarantee and postponement of claim in the amount of \$633,148 signed by Beckstette Enterprises Corp.;
- e) guarantee and postponement of claim in the amount of \$1,150,000 signed by Green Earth Environmental Products;
- f) guarantee and postponement of claim in the amount of \$4,575,000 signed by Green Earth Environmental Products;
- g) postponement and assignment of claim signed by Matthew McBride Enterprises Corp.;
- h) postponement and assignment of claim signed by Beckstette Enterprises Corp.

**Green Earth Stores Ltd.**  
**Notes to the financial statements**  
September 30, 2018  
(Unaudited)

**12. Share capital**

*Authorized*

Unlimited Class A preference shares, non-voting, non-cumulative, participating,  
redeemable at \$1 per share

Unlimited common shares

*Issued*

|                   | <b>2018</b> | 2017 |
|-------------------|-------------|------|
|                   | \$          | \$   |
| 100 common shares | <b>100</b>  | 100  |

**13. Additional information relating to the statement of cash flows**

|  | <b>2018</b>      | 2017      |
|--|------------------|-----------|
|  | \$               | \$        |
| <i>Changes in non-cash operating working capital items</i> |                  |           |
| Accounts receivable  | <b>11,341</b>    | (25,448)  |
| Government remittances recoverable                         | <b>37,058</b>    | (50,389)  |
| Inventory  | <b>2,262,861</b> | (422,590) |
| Prepaid expenses   | <b>(48,008)</b>  | 342,746   |
| Accounts payable and accrued liabilities                   | <b>(80,223)</b>  | (11,171)  |
| Income taxes recoverable                                   | <b>(317,883)</b> | (599,667) |
|  | <b>1,865,146</b> | (766,519) |

**14. Income taxes**

The income tax expense (recovery) reported differs from the amount computed by applying the Canadian statutory rate to earnings before income taxes for the following reasons:

|   | <b>2018</b>      | 2017     |
|---|------------------|----------|
|   | \$               | \$       |
| Tax at the applicable tax rate of 26.0% (26.5% in 2017)       | <b>(663,939)</b> | 113,802  |
| Permanent differences   | <b>83</b>        | (49,523) |
| Temporary differences   | <b>(11,200)</b>  | (3,049)  |
| Taxable capital gain (net refundable)                         | <b>-</b>         | 46,973   |
| Non-capital loss carryforwards not applied                    | <b>33,775</b>    | -        |
| Difference in rate recovered on carryback of prior year taxes | <b>106,086</b>   | -        |
| Income tax (recovery) expense                                 | <b>(535,195)</b> | 108,203  |

**15. Financial instruments**

*Interest rate risk*

The Company's exposure to interest rate risk lies in its operating lines and term loan with the bank, the interest on which is a function of the bank prime lending rate.

*Currency risk*

The Company's exposure to currency risk lies in its accounts payable, significant components of which are denominated in foreign currencies. A substantial amount of the company's purchases are in U.S. dollars. The Company does not use any other financial instruments to hedge its foreign currency exposure.

The balance sheet includes the following amounts expressed in Canadian dollars with respect to financial assets and liabilities for which cash flows are denominated in the following currencies:

|                  | <b>2018</b>    | 2017    |
|------------------|----------------|---------|
|                  | <b>\$</b>      | \$      |
| US dollars       |                |         |
| Accounts payable | <b>206,483</b> | 208,457 |

*Credit risk*

The company provides credit to its customers in the normal course of its operations. It carries out, on a continuing basis, credit checks on its customers and maintains provisions for contingent credit losses. The company minimizes its credit risk by dealing with a large number of customers. With the majority being retail customers paid on delivery.

*Liquidity risk*

The Company's objective is to have sufficient liquidity to meet its liabilities when due. The Company monitors its cash balances and cash flows generated from operations to meet its requirements. As at September 30, 2018, the most significant financial liabilities are bank indebtedness, accounts payable and accrued liabilities, term loan, due to related parties and long-term debt. As disclosed in Note 2, there are several adverse conditions and events which cast significant doubt upon the Company's use of the going concern assumption that are relevant to liquidity risk.

**This is Exhibit "P" referred to in the affidavit  
of MATTHEW MCBRIDE, SWORN BEFORE ME  
this 4th day of March 2019**

  
\_\_\_\_\_  
**A COMMISSIONER FOR TAKING AFFIDAVIT**





Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

District of Ontario  
Division No. 09 - Toronto  
Court No. 31-2481648  
Estate No. 31-2481648

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

**GREEN EARTH ENVIRONMENTAL PRODUCTS GENERAL  
PARTNERSHIP**

Insolvent Person

**CROWE SOBERMAN INC.**

Licensed Insolvency Trustee

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Date of the Notice of Intention: March 04, 2019

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

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

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

---

Date: March 04, 2019, 15:10

E-File/Dépôt Electronique

Official Receiver

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

**Canada**

**This is Exhibit "Q" referred to in the affidavit  
of MATTHEW MCBRIDE, SWORN BEFORE ME  
this 4th day of March 2019**

  
\_\_\_\_\_  
**A COMMISSIONER FOR TAKING AFFIDAVIT**



Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

District of Ontario  
Division No. 09 - Toronto  
Court No. 31-2481649  
Estate No. 31-2481649

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

**GREEN EARTH STORES LTD.**  
Insolvent Person

**CROWE SOBERMAN INC.**  
Licensed Insolvency Trustee

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Date of the Notice of Intention: March 04, 2019

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

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

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

---

Date: March 04, 2019, 15:15

E-File/Dépôt Electronique

Official Receiver

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

**Canada**

**This is Exhibit "R" referred to in the affidavit  
of MATTHEW MCBRIDE, SWORN BEFORE ME  
this 4th day of March 2019**

  
\_\_\_\_\_  
**A COMMISSIONER FOR TAKING AFFIDAVIT**



February 25, 2019

Green Earth Environmental Products and  
Green Earth Stores Ltd.  
23 Buchanan Court  
London, ON N5Z 4P9

Attention: Matthew McBride and Petra Beckstette

---

Dear Matthew and Petra:

This letter confirms and sets forth the terms and conditions of the engagement between FAAN Advisors Group Inc. ("**FAAN**") and Green Earth Environmental Products and Green Earth Stores Ltd. (collectively, the "**Company**"), including the scope of the services to be performed and the basis of compensation for those services. Upon execution of this letter by each of the parties below and receipt of the retainer described below, this letter will constitute an agreement between the Company and FAAN (the "**Agreement**").

1. Description of Services.

- (a) The Company hereby engages FAAN, and FAAN shall provide the services to serve as Chief Restructuring Adviser to the Company ("**CRA**"). FAAN, including its personnel, are collectively referred to as the "**Engagement Personnel**". During the performance of this Agreement, FAAN shall be an independent contractor and not an agent or employee of the Company and this Agreement is not intended and will not operate to make any Engagement Personnel an employee of the Company for any purpose.
- (b) The Engagement Personnel shall be responsible for the following duties:
  - (ii) The Engagement Personnel, in cooperation with the officers of the Company, shall perform a review of the Company, including, but not limited to, a review and assessment of the Company's business, assets, liabilities and operations all with respect to the Company's strategic alternatives;
  - (iii) The Engagement Personnel shall assist the Company in the identification and implementation of sales strategies and cost reduction opportunities, including closing stores and dealing with employee matters;
  - (iv) The Engagement Personnel shall be responsible for overseeing the activities of any consultant (the "**Consultant**") engaged by the

Company to assist in the closing of its stores and sale of merchandise located in the stores, including but not limited to reviewing that the store closings are conducted in accordance with any Court Order that is obtained in conjunction with the closings.

- (v) The Engagement Personnel shall support the Company and other professionals engaged by the Company to develop and review cash flow models and projections based on various potential restructuring alternatives, as well as required communications and public relations strategies;
  - (vi) The Engagement Personnel, shall review and provide information required by, and serve as a primary contact with, the Company's financial and legal advisors, lenders, creditors (including landlords) and other stakeholders; and
  - (vii) The Engagement Personnel shall perform such other services as requested or directed by the Company and customarily provided by a CRA of a company, and agreed to by FAAN, that is not duplicative of work others are performing for the Company.
- (c) Unless as amended pursuant to the Court order, the Engagement Personnel shall report to and operate under the direction of the Company's President.

## 2. Information Provided by Company and Forward-Looking Statements.

The Company shall: (i) provide the Engagement Personnel with access to management and other representatives of the Company; and (ii) furnish all data, material and other information concerning the business, assets, liabilities, operations, cash flows, properties, financial condition and prospects of the Company that the Engagement Personnel reasonably request in connection with the services to be provided to the Company. The Engagement Personnel shall rely, without further independent verification, on the accuracy and completeness of all publicly available information and information that is furnished by or on behalf of the Company and otherwise reviewed by Engagement Personnel in connection with the services performed for the Company. The Company acknowledges and agrees that the Engagement Personnel are not responsible for the accuracy or completeness of such information and shall not be responsible for any inaccuracies or omissions therein. The Engagement Personnel are under no obligation to update data submitted to them or to review any other areas unless specifically requested by the President to do so.

The Company understands that the services to be rendered by the Engagement Personnel may include the preparation of projections and other forward-looking statements, and numerous factors can affect the actual results of the Company's operations, which may materially and adversely differ from those projections. In addition, Engagement Personnel will be relying on information provided by the Company in the preparation of those projections and other forward-looking statements.



### 3. Limitation of Duties.

Neither FAAN, nor the Engagement Personnel make any representations or guarantees that, inter alia, (i) an appropriate restructuring proposal or strategic alternative can be formulated for the Company, (ii) any restructuring proposal or strategic alternative presented to the Company's management will be more successful than all other possible restructuring proposals or strategic alternatives, (iii) a restructuring is the best course of action for the Company, or (iv) if formulated, that any proposed restructuring plan or strategic alternative will be accepted by any of the Company's creditors, shareholders and other constituents. Further, the Engagement Personnel will not assume any responsibility for the Company's decision to pursue, or not pursue any business strategy, or to effect, or not to effect any transaction. The Engagement Personnel shall only be responsible for FAAN's role in the implementation of the restructuring proposal or alternative approved by the President and only to the extent and in the manner authorized and directed by the President.

### 4. Compensation.

- (a) FAAN will be paid by the Company for the services of the CRA at a fee of [REDACTED] per week plus applicable taxes and out-of-pocket expenses reasonably incurred in connection with or arising out of FAAN's activities under or contemplated by this Agreement. Out-of-pocket expenses shall include, but not be limited to, fees, disbursements and other charges associated with the Engagement Personnel's travel and lodging expenses, reasonable legal services provided to FAAN (if any), and other necessary expenses.
- (b) In addition to the fee noted above, the Company and FAAN shall agree to an additional fee payable to FAAN in an amount equal to up to [REDACTED] upon the achievement of certain objectives and outcomes. The terms and conditions of this additional fee shall be documented in writing within 15 days of the commencement of any Insolvency Proceeding (as defined below).
- (c) In the event the Company initiates a bankruptcy, insolvency or creditor enforcement proceeding (an "**Insolvency Proceeding**") under the *Companies' Creditors Arrangement Act*, the *Bankruptcy and Insolvency Act* or otherwise, and the approval of the court in which such a proceeding is brought (the "**Court**") is required with respect to the retention of FAAN as the CRA (and/or any other role) of the Company and/or any of the terms of such engagement (including, without limitation, the payment of FAAN's fees and expenses and the provision of indemnification to FAAN), then the Company shall apply for such approval by the Court and shall use reasonable commercial efforts to obtain such approval by the Court

promptly after the initiation of the Insolvency Proceeding, failing which FAAN may suspend or discontinue its efforts on behalf of the Company.

- (d) The Company shall promptly remit to FAAN, a retainer in the amount of [REDACTED] which shall be credited against any fees due and owing to FAAN at the successful conclusion of this mandate or the termination of this Agreement. Any portion of the retainer remaining after being credited against the fees owed will be returned to the Company upon the satisfaction of all obligations hereunder.
- (e) FAAN shall invoice the Company weekly in advance at the rates set out in paragraph 4(a) above, plus applicable taxes and out-of-pocket costs. Approved invoices rendered by FAAN are payable promptly after receipt.

5. Termination.

- (a) This Agreement will commence on the date the services referred to in Section 1 begin and may be terminated by the Company without cause by providing 15-days written notice to FAAN. In the case of just cause, this Agreement may be terminated immediately by the Company.
- (b) FAAN normally does not withdraw from an engagement unless the Company misrepresents or fails to disclose material facts, fails to pay fees or expenses, or makes it unethical or unreasonably difficult for FAAN to continue performance of the engagement, or other just cause exists. In the event that FAAN intends to withdraw from this engagement without cause, it shall provide 15-days written notice.
- (c) On termination of the Agreement, any fees and expenses due to FAAN for services provided up to and including the effective date of termination shall be remitted promptly by the Company (including fees and expenses that accrued prior to, but invoiced subsequent to, the effective date of termination).
- (d) The provisions of this Agreement that expressly state that they are to continue in effect after the termination of this Agreement, or which by their nature would survive the termination of this Agreement shall survive and continue to bind the parties.

6. No Audit.

The Company acknowledges and agrees that Engagement Personnel are not being requested to perform an audit, review or compilation, or any other type of financial statement reporting engagement that is subject to the rules of the CICA, ICAO, OSC, AICPA, SEC or other state or national professional or regulatory body.



7. No Third Party Beneficiary.

The Company acknowledges that all advice (written or oral) provided by FAAN to the Company in connection with this Agreement is intended solely for the benefit and use of the Company (limited to its management) in considering the matters to which this Agreement relates. The Company may choose to reproduce, disseminate, quote or refer to such information as it wishes, in its sole and absolute discretion, provided that in no event may such information be attributed to FAAN.

8. Exclusivity and Conflicts.

FAAN is an independent firm that has several clients and engagements, some of which will be active during the rendering of services by the Engagement Personnel in connection with this matter. FAAN is not currently aware of any relationship that would create a conflict of interest with the Company or those parties-in-interest of which you have made us aware. It is possible that FAAN may have rendered or will render services to, or have business associations with, other entities or people which had or have or may have relationships with the Company, including creditors of the Company. In the event the Company accepts the terms of this Agreement, FAAN will not represent, and has not represented, the interests of any entities or people which are in conflict with the interests of the Company in connection with this matter.

9. Limitations on Liability.

(a) FAAN shall incur no liability for any acts or omissions of the Engagement Personnel related to the performance or non-performance of services at the direction of the Company and consistent with the requirements of this engagement and this Agreement, provided that such actions or omissions are not carried out in a manner that is dishonest or grossly negligent and/or the Engagement Personnel has not engaged in willful misconduct. In the event the Company initiates an Insolvency Proceeding, the Company shall also seek, as part of any plan confirmation or final sale order obtained through an Insolvency proceeding, a full and final release of FAAN from all potentially affected parties to the plan confirmation or final sale order. The Company shall use reasonable commercial efforts to obtain such approval by the Court.

10. Miscellaneous.

This Agreement: (a) shall be governed and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein without giving effect to such Province's rules concerning conflicts of laws that might provide for any other choice of law; (b) incorporates the entire understanding of the parties with respect to the subject matter hereof; (c) may not be amended or modified except in writing executed by each of the parties hereto; (d) may be executed by facsimile and in counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same agreement; and (e) notwithstanding anything herein to the contrary, upon the completion of the restructuring process presently being undertaken in respect of the Company, FAAN



the parties hereto; may be executed by facsimile and in counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same agreement; and notwithstanding anything herein to the contrary, upon the completion of the restructuring process presently being undertaken in respect of the Company, FAAN may reference or list the Company's name and/or a general description of the services in FAAN's marketing materials.

If the foregoing is acceptable to you, kindly sign the enclosed copy to acknowledge your agreement with its terms.

Very truly yours,

**FAAN ADVISORS GROUP INC.**

Per: 

Daniel Sobel, Managing Director

Accepted and agreed:

**Green Earth Stores Ltd.**

Per:  M. MCBRIDE

(I have the authority to bind the Corporation)

Accepted and agreed:

**Green Earth Environmental Products**

Per:  M. MCBRIDE

(I have the authority to bind the Partnership)

**This is Exhibit "S" referred to in the affidavit  
of MATTHEW MCBRIDE, SWORN BEFORE ME  
this 4th day of March 2019**

  
\_\_\_\_\_  
**A COMMISSIONER FOR TAKING AFFIDAVIT**

February 25, 2019

Green Earth Environmental Products and  
Green Earth Stores Ltd.  
23 Buchanan Court  
London, ON N5Z 4P9

Attention: Matthew McBride and Petra Beckstette

Dear Matthew and Petra:

**Re: Consulting Agreement**

This letter confirms that Green Earth Environmental Products and Green Earth Stores Ltd. (collectively, the "**Company**") is retaining the services of Shawn Parkin as an exclusive lead consultant (the "**Consultant**") to the Company to assist the Company to conduct a store closing sale (or similar theme) (the "**Sale**") of the Company's 29 stores and warehouse as listed on Exhibit "A", which list may be amended upon agreement between the Company and Consultant. The Consultant understands the Company intends to seek court approval of the Sale, including the sale guidelines attached hereto as Exhibit "B" ("**Sale Guidelines**") in the context of an insolvency proceeding and the Sale shall commence after the receipt of such an Order (the "**Approval Order**"). The Consultant's engagement will start upon the date of this letter agreement and it is currently estimated that the sale will start immediately following the granting of the Approval Order.

The Consultant shall provide consulting services to the Company with respect to the disposition of merchandise ("**Merchandise**"), furniture, fixtures and equipment ("**FF&E**") owned by the Company. The services provided by the Consultant shall include, inter alia:

- (i) Assist the Company in developing a budget for the Sale (the "**Budget**");
- (ii) Assist the Company to oversee the Sale in an effort to sell all of the Merchandise and FF&E. The Consultant will direct Company staff as to how to deal with FF&E;
- (iii) Determine and recommend appropriate point of purchase, point of sale and external advertising to effectively sell the Merchandise and FF&E;
- (iv) Determine the appropriate pricing, display and discounting of merchandise, as well as recommend appropriate staffing levels for the stores;

- (iv) Determine the appropriate pricing, display and discounting of merchandise, as well as recommend appropriate staffing levels for the stores;
- (v) Assist the Company in developing a sales incentive and employee retention plan to be utilized during the Sale;
- (vi) Determine and recommend appropriate transfers of merchandise among the stores and warehouse to maximize sales;
- (vii) Coordinate sales and discounting reporting functions; and
- (viii) Provide such other related services required in conjunction with the Sale and as agreed to by the Company and the Consultant.

The services noted above shall be conducted in accordance with the Sale Guidelines as approved by the Court. The Consultant shall not be responsible for the sale of any store leases or the real property owned by the Company that houses the warehouse.

Fees: The Consultant is entitled to a base fee of [REDACTED] (plus HST) per week, pro-rated for partial weeks, paid weekly in advance from the date of this Agreement to the end of the Sale. In addition to the above fee, the Consultant is entitled to the following:

- A bonus of [REDACTED] which is payable at the earlier of the end of the Sale and termination of this Agreement;
- A commission of 20% of the net proceeds from the sale of the FF&E; and
- Reasonable out of pocket expenses will be reimbursed by the Company in accordance with the Budget.

This agreement may be terminated by either party by providing 15-days' notice and otherwise may be terminated on agreement of the parties at the end of the Sale.

Expenses: The Company shall be responsible for the payment of all expenses incurred in operating the stores and conducting the Sale, including all payroll, and occupancy expenses and all sale expenses (including without limitation expenses related to advertising and signage, sign walkers and miscellaneous expenses).

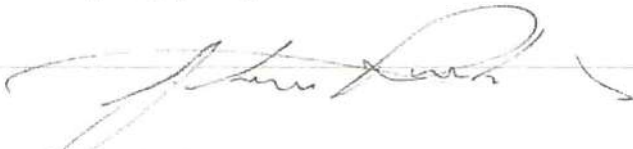
Independent Contractor: During the performance of this Agreement, the Consultant shall be an independent contractor and not an agent or employee of the Company and this Agreement is not intended and will not operate to make the Consultant an employee of the Company for any purpose.



writing executed by each of the parties hereto; and (d) may be executed by facsimile and in counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same agreement.

If the foregoing is acceptable to you, kindly sign the enclosed copy to acknowledge your agreement with its terms.

Very truly yours,

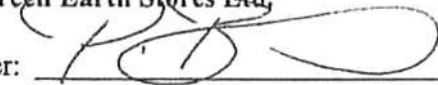


Shawn Parkin

Accepted and agreed:

**Green Earth Stores Ltd,**

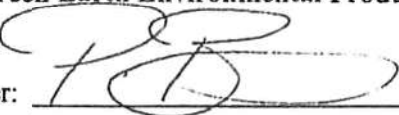
Per: \_\_\_\_\_



(I have the authority to bind the Corporation)

**Green Earth Environmental Products**

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



(I have the authority to bind the Partnership)



# EXHIBIT A



## Green Earth Store Locations

Devonshire Mall  
3100 Howard Avenue  
Windsor, Ontario N8X 3Y8  
phone: (519) 972-0394

Pen Centre Mall  
221 Glendale Avenue  
St. Catharines, Ontario L2T 2K9  
phone: (905) 704-0615

Georgian Mall  
509 Bayfield Street  
Barrie, Ontario L4M 4Z8  
phone: (705) 728-9631

White Oaks Mall  
1105 Wellington Road South  
London, Ontario N6E 1V4  
phone: (519) 685-3130

Masonville Place  
1680 Richmond Street North  
London, Ontario N6G 3Y9  
phone: (519) 672-8955

Fairview Park Mall  
2960 Kingsway Drive  
Kitchener, Ontario N2C 1X1  
phone: (519) 748-2899

Erin Mills Town Centre  
5100 Erin Mills Parkway  
Mississauga, Ontario L5M 4Z5  
phone: (905) 828-1011

Lime Ridge Mall  
999 Upper Wentworth Street  
Hamilton, Ontario L9A 4X5  
phone: (905) 318-9639

Cambridge Centre  
355 Hespeler Road  
Cambridge, Ontario N1R 6B3  
phone: (519) 624-6777

Conestoga Mall  
550 King Street North  
Waterloo, Ontario N2L 5W6  
phone: (519) 746-3019

Lambton Mall  
1380 London Road  
Sarnia, Ontario N7S 1P8  
phone: (519) 542-2004

Stone Road Mall  
435 Stone Road West  
Guelph, Ontario N1G 2X6  
phone: 519-767-5144

Quinte Mall  
390 North Front Street  
Belleville, Ontario K8P 3E1  
phone: (613) 966 6458

Lynden Park Mall  
84 Lynden Road  
Brantford, Ontario N3R 6B8  
phone: (519) 752-7514

New Sudbury Centre  
1349 Lasalle Boulevard  
Sudbury, Ontario P3A 1Z2  
phone: 705-560-6600

Lindsay Square Mall  
401 Kent Street West  
Lindsay, Ontario K9V 4Z1  
phone: (705) 324-6962

Orangeville Mall  
150 First Street  
Orangeville, Ontario L9W 3T7  
phone: (519) 942-9555

Oshawa Centre  
419 King Street West  
Oshawa, Ontario L1J 2K5  
phone: (905) 404-9355

Northgate Shopping Centre  
1500 Fisher Street  
North Bay, Ontario P1B 2H3  
phone: (705) 840-0200

Intercity Shopping Centre  
1000 Fort William Road  
Thunder Bay, Ontario P7B 6B9  
phone: (807) 626-0182

Georgetown Market Place  
280 Guelph Street  
Georgetown, Ontario L7G 4B1  
phone: (905) 702-8111

Lansdowne Place  
645 Lansdowne Street West  
Peterborough, Ontario K9J 7Y5  
phone: (705) 740-9244

Bramalea City Centre  
25 Peel Centre Drive  
Brampton, Ontario L6T 3R5  
phone: (905) 789-1961

Cataraqui Centre  
945 Gardiners Road  
Kingston, Ontario K7M 7H4  
phone: (613) 634-3597

Festival Marketplace  
1067 Ontario Street  
Stratford, ON N5A 6W6  
phone: (519) 271-6648

St. Laurent Shopping Centre  
1200 St. Laurent Boulevard  
Ottawa, Ontario K1K 3B8  
phone: (613) 741-3636

Place d'Orleans  
110 Place d'Orleans Drive  
Orleans, Ontario K1C 2L9  
phone: (613) 424-4429

Upper Canada Mall  
17600 Yonge Street  
Newmarket, Ontario L3Y 4Z1  
phone: (905) 235-6100

Burlington Mall  
777 Guelph Line  
Burlington, Ontario L7R 3N2  
phone: (905) 631-7780

## EXHIBIT B

### SALE GUIDELINES

The following procedures shall apply to the Sale to be conducted at the Closing Stores of Green Earth Environmental Products and Green Earth Store Limited (collectively, the “**Merchant**”). All terms not herein defined shall have the meaning set forth in the Consulting Agreement by and between Shawn Parkin (the “**Consultant**”) and the Merchant dated as of February 25, 2019 (the “**Consulting Agreement**”).

1. Except as otherwise expressly set out herein, and subject to: (i) the Approval Order or any further Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”); or (ii) any subsequent written agreement between the Merchant and the applicable landlord(s) (individually, a “**Landlord**” and, collectively, the “**Landlords**”) and approved by the Consultant in writing, or (iii) as otherwise set forth herein, the Sale shall be conducted in accordance with the terms of the applicable leases/ or other occupancy agreements to which the affected Landlords are privy for each of the affected Closing Stores (individually, a “**Lease**” and, collectively, the “**Leases**”). However, nothing contained herein shall be construed to create or impose upon the Merchant or the Consultant any additional restrictions not contained in the applicable Lease or other occupancy agreement.
2. The Sale shall be conducted so that each of the Closing Stores remains open during its normal hours of operation provided for in its respective Lease until the respective sale termination date for such Closing Store. The Sale at the Closing Stores shall end by no later than the June 30, 2019 (the “**Sale Termination Date**”). With the consent of the Merchant and the Consultant, the Sale Termination Date may be extended to no later than **[July 30, 2019]**. Rent payable under the respective Leases shall be paid in accordance with the terms of the Approval Order.
3. The Sale shall be conducted in accordance with applicable federal, provincial and municipal laws and regulations, unless otherwise ordered by the Court.
4. All display and hanging signs used in connection with the Sale shall be professionally produced and all hanging signs shall be hung in a professional manner. Notwithstanding anything to the contrary contained in the Leases, the Merchant and the Consultant may advertise the Sale at the Closing Stores as an “everything on sale”, an “everything must go”, a “store closing” or similar theme sale at the Closing Stores (provided however that no signs shall advertise the Sale as a “bankruptcy”, a “going out of business” or a “liquidation” sale it being understood that the French equivalent of “clearance” is “liquidation” and is permitted to be used). Forthwith upon request from a Landlord, a Landlord’s counsel, the Merchant or the Proposal Trustee, the Consultant shall provide the proposed signage packages along with the proposed dimensions and number of signs (as approved by the Merchant pursuant to the Consulting Agreement) by e-mail or facsimile to the applicable Landlords or to their counsel of record. Where the provisions of the Lease conflict with the Sale Guidelines, these Sale Guidelines shall govern. The Merchant and the Consultant shall not use neon or day-glow or handwritten signage (unless otherwise contained in the sign package, including “you pay” or “topper” signs). In addition, the



Merchant and the Consultant shall be permitted to utilize exterior banners/signs at stand alone or strip mall Closing Stores or enclosed mall Closing Stores with a separate entrance from the exterior of the enclosed mall, provided, however, that where such banners are not explicitly permitted by the applicable Lease and the Landlord requests in writing that the banners are not to be used, no banners shall be used absent further Order of the Court, which may be sought on an expedited basis on notice to the service list in the NOI proceedings (the “**Service List**”). Any banners used shall be located or hung so as to make clear that the Sale is being conducted only at the affected Closing Store and shall not be wider than the premises occupied by the affected Closing Store. Exterior banners will not be used during the Sale. If a Landlord is concerned with “store closing” signs being placed in the front window of a Closing Store or with the number or size of the signs in the front window, the Consultant will meet with the Merchant and the Landlord to discuss the Landlord’s concerns and work to resolve the dispute. The Merchant and the Consultant shall not utilize any commercial trucks to advertise the Sale on the mall premises. The Merchant and the Consultant shall be permitted to utilize sign walkers and street signage; provided, however, such sign walkers and street signage shall not be located on the shopping centre or mall premises.

5. The Merchant and the Consultant shall not make any alterations to interior or exterior Closing Store lighting, except as authorized pursuant to the applicable Lease. The hanging of exterior banners or other signage, where permitted in accordance with the terms of these guidelines, shall not constitute an alteration to a Closing Store.
6. Conspicuous signs shall be posted in the cash register areas of each Closing Store to the effect that all sales are “final”.
7. The Merchant and the Consultant shall not distribute handbills, leaflets or other written materials to customers outside of any of the Closing Stores on any Landlord’s property, unless permitted by the applicable Lease or, if distribution is customary in the shopping centre in which the Closing Store is located. Otherwise, the Merchant and the Consultant may solicit customers in the Closing Stores themselves. The Merchant and the Consultant shall not use any giant balloons, flashing lights or amplified sound to advertise the Sale or solicit customers, except as permitted under the applicable Lease, or agreed to by the Landlord.
8. At the conclusion of the Sale in each Closing Store, the Merchant shall arrange that the premises for each Closing Store are in “broom-swept” and clean condition, and shall arrange that the Closing Stores are in the same condition as on the commencement of the Sale, ordinary wear and tear excepted. No property of any Landlord of a Closing Store shall be removed or sold during the Sale. No permanent fixtures (other than FF&E which for clarity is owned by the Merchant) may be removed without the applicable Landlord’s written consent unless otherwise provided by the applicable Lease. Any fixtures or personal property left in a Closing Store after the Sale Termination Date in respect of which the applicable Lease has been disclaimed by the Merchant shall be deemed abandoned, with the applicable Landlord having the right to dispose of the same as the Landlord chooses, without any liability whatsoever on the part of the Landlord. Nothing in this



paragraph shall derogate from or expand upon the Consultant's obligations under the Consulting Agreement.

9. Subject to the terms of paragraph 8 above and the Consulting Agreement, the Merchant, with the assistance of the Consultant, may sell FF&E which is located in the Closing Stores during the Sale. For greater certainty, FF&E does not include any portion of the Closing Stores' HVAC, sprinkler, fire suppression or fire alarm systems. The Merchant and the Consultant may advertise the sale of FF&E consistent with these guidelines on the understanding that any applicable Landlord may require that such signs be placed in discreet locations acceptable to the applicable Landlord, acting reasonably. Additionally, the purchasers of any FF&E sold during the Sale shall only be permitted to remove the FF&E either through the back shipping areas designated by the applicable Landlord, or through other areas after regular store business hours, or through the front door of the Closing Store during store business hours if the FF&E can fit in a shopping bag, with applicable Landlord's supervision as required by the applicable Landlord. The Merchant shall repair any damage to the Closing Stores resulting from the removal of any FF&E by the Merchant or by third party purchasers of FF&E from the Merchant.
10. The Merchant hereby provides notice to the Landlords of the Merchant of the Merchant's intention to sell and remove FF&E from the Closing Stores. The CRA and Consultant will arrange with each Landlord represented by counsel on the Service List and with any other applicable Landlord that so requests, a walk through with the CRA and the Consultant to identify the FF&E subject to the sale. The relevant Landlord shall be entitled to have a representative present in the Closing Store to observe such removal. If the Landlord disputes the Merchant's entitlement to sell or remove any FF&E under the provisions of the Lease, such FF&E shall remain on the premises and shall be dealt with as agreed between the Merchant, the Consultant and such Landlord, or by further Order of the Court upon application by the Merchant on at least two (2) days' notice to such Landlord. If the Merchant has disclaimed the Lease governing such Closing Store in accordance with the BIA, it shall not be required to pay rent under such Lease pending resolution of any such dispute (other than rent payable for the notice period provided for in the BIA), and the disclaimer of the Lease shall be without prejudice to the Merchant's claim to the FF&E in dispute.
11. If a notice of disclaimer is delivered pursuant to the BIA to a Landlord while the Sale is ongoing and the Closing Store in question has not yet been vacated, then: (a) during the notice period prior to the effective time of the disclaimer, the applicable Landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Merchant 24 hours' prior written notice; and (b) at the effective time of the disclaimer, the relevant Landlord shall be entitled to take possession of any such Closing Store without waiver of or prejudice to any claims or rights such Landlord may have against the Merchant in respect of such Lease or Closing Store, provided that nothing herein shall relieve such Landlord of its obligation to mitigate any damages claimed in connection therewith.
12. The Consultant and its agents and representatives shall have the same access rights to the Closing Stores as the Merchant under the terms of the applicable Lease, and the applicable

Landlords shall have the rights of access to the Closing Stores during the Sale provided for in the applicable Lease (subject, for greater certainty, to any applicable stay of proceedings).

13. The Merchant and the Consultant shall not conduct any auctions of Merchandise or FF&E at any of the Closing Stores.
14. The Merchant and the Consultant shall be entitled to include additional merchandise in the Sale; provided that (a) the additional merchandise is currently in the possession of the Applicants (including in its warehouse located in Ontario) and (b) the additional merchandise is of like kind and category and no lessor quality to the Merchandise, and consistent with any restriction on usage of the Closing Stores set out in the applicable Leases.
15. The Merchant shall designate a party to be contacted by the Landlords should a dispute arise concerning the conduct of the Sale. The initial contact person will be the Naveed Manzoor from the CRA office who may be reached by phone at 416-258-6145 or email at naveed@faanadvisors.com. If the parties are unable to resolve the dispute between themselves, the Landlord or Merchant shall have the right to schedule a "status hearing" before the Court on no less than two (2) days written notice to the other party or parties, during which time the Merchant shall cease all activity in dispute other than activity expressly permitted herein, pending the determination of the matter by the Court; provided, however, that if a banner has been hung in accordance with these Sale Guidelines and is thereafter the subject of a dispute, the Merchant shall not be required to take any such banner down pending determination of the dispute.
16. Nothing herein is, or shall be deemed to be a consent by any Landlord to the sale, assignment or transfer of any Lease, or to grant to the Landlord any greater rights than already exist under the terms of any applicable Lease.
17. These Sale Guidelines may be amended by written agreement between the Merchant, the Consultant and any applicable Landlord (provided that such amended Sale Guidelines shall not affect or bind any other Landlord not privy thereto without further Order of the Court approving the amended Sale Guidelines).



**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF  
GREEN EARTH ENVIRONMENTAL PRODUCTS AND GREEN EARTH STORES LTD.**

Estate/Court File No.: 31-2481648  
Estate/Court File No.: 31-2481649

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**AFFIDAVIT OF MATTHEW MCBRIDE  
(Sworn March 4, 2019)**

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Lawyers for the Applicants

# TAB 4

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE - COMMERCIAL LIST**

THE HONOURABLE ) THURSDAY, THE  
)  
)  
JUSTICE ) 7<sup>TH</sup> DAY OF MARCH, 2019  
)  
B E T W E E N :

Estate/Court File No.: 31-2481648

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
GREEN EARTH ENVIRONMENTAL PRODUCTS, A GENERAL PARTNERSHIP  
ESTABLISHED IN THE PROVINCE OF ONTARIO**

Applicant

Estate/Court File No.: 31-2481649

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
GREEN EARTH STORES LTD., A CORPORATION INCORPORATED IN THE  
PROVINCE OF ONTARIO**

Applicant

**ADMINISTRATION ORDER**

**THIS MOTION**, made by made by Green Earth Environmental Products (“**GEEP**”) and Green Earth Stores Ltd. (“**GESL**” and together the “**Applicants**”) pursuant to the *Bankruptcy and Insolvency Act* R.S.C. 1985, c. B-3 (the “**BIA**”) for an Order, among other things, appointing FAAN Advisors Group Inc. as Chief Restructuring Advisor, approving the administrative consolidation of the Applicants’ proposal proceedings, approving certain charges, extending the time for filing a proposal (the “**Proposal Period**”) pursuant to s. 50.4(9) of the BIA, and certain related relief was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Notice of Motion of the Applicants, the Affidavit of Matthew McBride sworn March 4, 2019 and exhibits thereto (the “**McBride Affidavit**”), the First Report (the “**First Report**”) of Crowe Soberman Inc. (“**Crowe Soberman**”), in its capacity as proposal trustee of the Applicants (in such capacity, the “**Proposal Trustee**”), and the confidential appendices thereto, filed, and on hearing the submissions of respective counsel for the Applicants, the Proposal Trustee, [NTD: add other parties that advise they will attend] and

such other counsel as were present, no one else appearing although duly served as appears from the Affidavits of Service of ● sworn March ●, 2019 filed;

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the First Report is hereby abridged and validated so that this motion is properly returnable today and that service, including the form, manner and time that such service was actually effected on all parties, is hereby validated, and where such service was not effected such service is hereby dispensed with.

### **ADMINISTRATIVE CONSOLIDATION**

2. **THIS COURT ORDERS** that the proposal proceedings of Green Earth Environmental Products (Estate Number 31-●) and Green Earth Stores Ltd. (Estate Number 31-●) (collectively, the “**Proposal Proceedings**”) are hereby administratively consolidated and the Proposal Proceedings are hereby authorized and directed to continue under the following joint title of proceedings, *nunc pro tunc*:

Estate/Court File No. 31-●  
Estate/Court File No. 31-●

### **IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF GREEN EARTH ENVIRONMENTAL PRODUCTS, A GENERAL PARTNERSHIP ESTABLISHED IN THE PROVINCE OF ONTARIO, AND GREEN EARTH STORES LTD., A CORPORATION INCORPORATED IN THE PROVINCE OF ONTARIO**

3. **THIS COURT ORDERS** that all further materials in the Proposal Proceedings shall be filed with the Court only in the GEEP Estate and Court file, being Estate/Court File No. 31-●.

4. **THIS COURT ORDERS** that Crowe Soberman, in its capacity as the Proposal Trustee of the consolidated Proposal Proceedings, may administer the Proposal Proceedings on a consolidated basis, and in doing so the Proposal Trustee is authorized to administer the Proposal Proceedings as if they were a single proposal proceeding for the purpose of carrying out its administrative duties and responsibilities as proposal trustee under the BIA with respect to the administration of proposal proceedings generally, including without limitation:

- (i) the Proposal Trustee is authorized to issue consolidated reports in respect of the Proposal Proceedings; and
- (ii) the Proposal Trustee is authorized to perform a consolidated making, filing, advertising and distribution of all filings and notices in the Proposal Proceedings required under the BIA.

#### **APPROVAL OF ENGAGEMENT OF CRA**

5. **THIS COURT ORDERS** that the agreement dated February 25, 2019 pursuant to which the Applicants have engaged FAAN Advisors Group Inc. as Chief Restructuring Advisor (“**CRA**”), a copy of which is attached as an exhibit in a redacted form to the McBride Affidavit and was filed as confidential exhibit “1” to the McBride Affidavit, as may be amended by the parties thereto with the consent of the Proposal Trustee (the “**CRA Engagement Letter**”) and the appointment of the CRA pursuant to the terms thereof are hereby approved.

#### **CASH MANAGEMENT**

6. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize the cash management system currently in place as described in the McBride Affidavit or replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that the CRA be added as a required signing officer on the Applicants’ bank accounts for the pendency of the Proposal Proceedings that shall authorize all expenditures of \$5,000 or greater.

#### **APPROVAL OF THE ADMINISTRATION CHARGE**

7. **THIS COURT ORDERS** that the Proposal Trustee, Stikeman Elliott LLP as counsel for the Proposal Trustee (the “**Proposal Trustee’s Counsel**”), Miller Thomson LLP as counsel to the Applicants in connection with these Proposal Proceedings (the “**Applicants’ Counsel**”), shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges or as set out in the approved engagement letters, by the Applicants as part of the costs of these Proposal Proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Proposal Trustee, the Proposal Trustee’s Counsel and the Applicants’ Counsel (for work performed in connection with these Proposal Proceedings) on a weekly basis.



8. **THIS COURT ORDERS** that the Proposal Trustee, the Proposal Trustee’s Counsel, the Applicants’ Counsel, the CRA and the Consultant (as defined in the Liquidation Procedure Order granted in these Proposal Proceedings) shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on all assets, rights, undertakings and properties of the Applicants, of every nature and kind whatsoever, and wherever situated including all proceeds thereof (the “**Property**”), which Administration Charge shall not exceed an aggregate amount of \$400,000, as security for their professional fees and disbursements incurred at their standard rates and charges, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 14 and 15 herein.

#### **APPROVAL OF THE D&O CHARGE**

9. **THIS COURT ORDERS** that the Applicants shall indemnify their current and future directors and officers (the “**Directors and Officers**”) against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the Proposal Proceedings, including, without limitation, in respect of any failure to pay wages and source deductions and vacation pay, except to the extent that, with respect to any director or officer, the obligation or liability was incurred as a result of the director’s or officer’s gross negligence or willful misconduct.

10. **THIS COURT ORDERS** that the Directors and Officers shall be entitled to the benefit of and are hereby granted a charge (the “**D&O Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$500,000 as security for the indemnity provided in paragraph 9 of this Order. The D&O Charge shall have the priority set out in paragraphs 14 and 15 herein.

11. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the D&O Charge, and (b) the Directors and Officers shall only be entitled to the benefit of the D&O Charge to the extent that they do not have coverage under any directors’ and officers’ insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 9 of this Order.

## **APPROVAL OF THE KERA AND KERA CHARGE**

12. **THIS COURT ORDERS** that the key employment retention term and agreement (“**KERA**”) attached as Confidential Appendix “1” to the First Report is hereby approved and the Applicants are authorized and directed to make the payments contemplated thereunder in accordance with the terms and conditions of the KERA.

13. **THIS COURT ORDERS** that the employees who are the beneficiaries of the KERA (the “**KERA Beneficiaries**”) shall be entitled to the benefit of and are hereby granted a charge (the “**KERA Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$100,000 as security of all amounts now or hereafter owing under the KERA to the KERA Beneficiaries, before and after the making of this Order. The KERA Charge shall have the priority set out in paragraphs 14 and 15 herein.

## **PRIORITY OF CHARGES**

14. **THIS COURT ORDERS** that the priorities of the Administration Charge, the D&O Charge, the KERA Charge (together, the “**Charges**”), as among them, be as follows:

First - the Administration Charge (to the maximum amount of \$400,000);

Second - the D&O Charge (to the maximum amount of \$500,000); and

Third - the KERA Charge (to the maximum amount of \$100,000).

15. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts (including constructive trusts), liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, the “**Encumbrances**”) in favour of any individual, firm, corporation, governmental body or agency or any other entity (each of the foregoing being a “**Person**”), other than any secured creditors who have not been served with the Applicants’ Motion Record dated March 1, 2019, perfected purchase money security interests under the Ontario Personal Property Registry or such other applicable provincial legislation unless otherwise provided herein.

16. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as

against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

17. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges unless the Applicants also obtain the prior written consent of the Proposal Trustee and the other beneficiaries of the Charges, or further Order of this Court.

18. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these Proposal Proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicants of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by the creation of the Charges; and
- (c) the granting of the Charges, does not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

19. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interest in such real property leases.

#### **STAY EXTENSION**

20. **THIS COURT ORDERS** that the Proposal Period is hereby extended in accordance with subsection 50.4(9) of the BIA, to and including May 3, 2019.

#### **SEALING**

21. **THIS COURT ORDERS** that the unredacted CRA Engagement Letter, the unredacted Consulting Agreement filed separately with the Court, the Comparative Analysis (as defined in the First Report) and the KERA filed as Confidential Appendices "1" and "2" to the First Report are hereby sealed and shall not form part of the public record, pending further order of the Court.

#### **PROPOSAL TRUSTEE DUTIES**

22. **THIS COURT ORDERS** that the Proposal Trustee continues to be and is hereby authorized to take all steps required to fulfill its duties under the BIA or as an officer of the Court, including, without limitation, to:

- (a) monitor the Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Proposal Trustee may deem appropriate with respect to matters relating to the Property, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicants in their preparation of the Applicants' cash flow statements, which information shall be reviewed with the Proposal Trustee;
- (d) assist the Applicants in their development of proposals to their creditors and any amendments to such proposals;
- (e) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on any proposals;



- (f) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under the BIA or this Order;
- (g) be at liberty to engage such Persons as the Proposal Trustee deems necessary or advisable respecting the exercise of its powers and performance of its obligations under the BIA or this Order; and
- (h) perform such other duties as are required by the BIA, this Order or by this Court from time to time.

23. **THIS COURT ORDERS** that the Proposal Trustee shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Applicants' business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Applicants' business or the Property, or any part thereof.

24. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Proposal Trustee under the BIA or as an officer of this Court, the Proposal Trustee shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded to the Proposal Trustee under the BIA or any applicable legislation.

#### **SERVICE AND NOTICE**

25. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/Toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the Rules of Civil Procedure (Ontario) (the "**Rules**"), this Order shall constitute an Order for substituted service

pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a case website shall be established in accordance with the Protocol with the following URL: <https://crowesoberman.com/insolvency/engagements/green-earth-stores-ltd-green-earth-environmental-products>.

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants and the Proposal Trustee are at liberty to serve or distribute this Order, any other materials and orders in these Proposal Proceedings and any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

27. **THIS COURT ORDERS** that the Applicants, the Proposal Trustee and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these Proposal Proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

## **GENERAL**

28. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

29. **THIS COURT HEREBY REQUESTS** the aid and recognition of any Court, tribunal, regulatory or administrative bodies, having jurisdiction in Canada or in the United States of America, to give effect to this Order and to assist the Applicants, the Proposal Trustee and their

respective 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 Applicants and to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Proposal Trustee in any foreign proceeding, or to assist the Applicants and the Proposal Trustee and their respective agents in carrying out the terms of this Order.

30. **THIS COURT ORDERS** that any interested party (including the Applicants and the Proposal Trustee) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF  
GREEN EARTH ENVIRONMENTAL PRODUCTS AND GREEN EARTH STORES LTD.**

Estate/Court File No.: 31-2481648  
Estate/Court File No.: 31-2481649

**ONTARIO  
SUPERIOR COURT OF JUSTICE -  
COMMERCIAL LIST**

Proceeding commenced at [Toronto](#)

**ADMINISTRATION ORDER  
(DATED: MARCH 7, 2019)**

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Lawyers for the Applicants



## TAB 5

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

THE HONOURABLE

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THURSDAY, THE

JUSTICE

7<sup>TH</sup> DAY OF MARCH, 2019

Estate/Court File No. 31-2481648

Estate/Court File No. 31-2481649

**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF  
GREEN EARTH ENVIRONMENTAL PRODUCTS, A GENERAL PARTNERSHIP  
ESTABLISHED IN THE PROVINCE OF ONTARIO, AND GREEN EARTH STORES  
LTD., A CORPORATION INCORPORATED IN THE PROVINCE OF ONTARIO**

**LIQUIDATION PROCESS ORDER**

**THIS MOTION**, made by made by Green Earth Environmental Products (“**GEEP**”) and Green Earth Stores Ltd. (“**GESL**” and together the “**Applicants**”) for an Order, among other things, approving the consulting agreement entered into between the Applicants and Shawn Parkin (the “**Consultant**”) made as of February 25, 2019 (the “**Consulting Agreement**”) and the transactions contemplated thereby, approving the sale guidelines and certain related relief was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Notice of Motion of the Applicants, the Affidavit of Matthew McBride sworn March 4, 2019 and exhibits thereto (the “**McBride Affidavit**”), the First Report (the “**First Report**”) of Crowe Soberman Inc. (“**Crowe Soberman**”) in its capacity as proposal trustee of the Applicants (in such capacity, the “**Proposal Trustee**”), and the appendices and confidential appendices thereto, filed, and on hearing the submissions of respective counsel for the Applicants, the Proposal Trustee, [NTD: add parties who advise they will attend] and such other counsel as were present, no one else appearing although duly served as appears from the Affidavits of Service of ● sworn ●, 2019 filed;

## **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the First Report is hereby abridged and validated so that this motion is properly returnable today and that service, including the form, manner and time that such service was actually effected on all parties, is hereby validated, and where such service was not effected such service is hereby dispensed with.

## **DEFINED TERMS**

2. **THIS COURT ORDERS** that capitalized terms used and not defined herein have the same meaning ascribed to them in the Consulting Agreement.

## **APPROVAL OF THE CONSULTING AGREEMENT**

3. **THIS COURT ORDERS** that the Consulting Agreement, including the Sale Guidelines attached hereto as Schedule A (the “**Sale Guidelines**”), and the transactions contemplated under the Consulting Agreement, including the Sale Guidelines, are hereby approved with such minor amendments (to the Consulting Agreement, but not the Sale Guidelines) as the Applicants and the Chief Restructuring Advisor (the “**CRA**”), with the consent of the Proposal Trustee, and the Consultant may deem necessary and agree to in writing. Subject to the provisions of this Order, the Applicants and the Proposal Trustee are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable to implement the Consulting Agreement and the Sale Guidelines and each of the transactions contemplated therein.

## **THE SALE**

4. **THIS COURT ORDERS** that Applicants, with the assistance of the CRA and the Consultant, are authorized and directed to conduct the Sale in accordance with this Order, the Consulting Agreement and the Sale Guidelines and to advertise and promote the Sale within the Closing Stores, all in accordance with the Sale Guidelines. If there is a conflict between this Order, the Consulting Agreement and the Sale Guidelines, the order of priority of documents to resolve each conflict is as follows: (1) this Order; (2) the Sale Guidelines; and (3) the Consulting Agreement.

5. **THIS COURT ORDERS** that the Applicants, with the assistance of the CRA and the Consultant, are authorized to market and sell the Merchandise and the FF&E, free and clear of all liens, claims, encumbrances, security interests, mortgages, charges, trusts, deemed trusts, executions, levies, financial, monetary or other claims, whether or not such claims have attached or been perfected, registered or filed and whether secured, unsecured, quantified or unquantified, contingent or otherwise, whensoever and howsoever arising, and whether such claims arose or came into existence prior to the date of this Order or arise or come into existence following the date of this Order (in each case, whether contractual, statutory, arising by operation of law, in equity or otherwise) (all of the foregoing, collectively “**Claims**”), including, without limiting the generality of the foregoing: (a) any encumbrances or charges created by this Order and any other charges hereinafter granted by this Court in these proceedings; and (b) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the “**Encumbrances**”), which Claims will attach instead to the proceeds received from the Merchandise and the FF&E, other than amounts due and payable to the Consultant by the Applicants under the Consulting Agreement, in the same order and priority as the Claims existed as at the date hereof.

6. **THIS COURT ORDERS** that, subject to the terms of this Order and the Sale Guidelines, the Consultant shall have the right to use the Closing Stores and all related store services, furniture, trade fixtures and equipment, including the FF&E, located at the Closing Stores, and other assets of the Applicants for the purpose of assisting the Applicants to conduct the Sale, and for such purposes, the Consultant shall be entitled to the benefit of the Applicants’ stay of proceedings provided under section 69 or section 69.1 of the BIA, as applicable.

7. **THIS COURT ORDERS** that until July 30, 2019 or such earlier date as a lease is disclaimed in accordance with the BIA, the Consultant shall have access to the Closing Stores in accordance with the applicable leases and the Sale Guidelines on the basis that the Consultant is assisting the Applicants and the Applicants have granted the right of access to the applicable Closing Store to the Consultant. To the extent that the terms of the applicable leases are in conflict with any term of this Order or the Sale Guidelines, the terms of this Order and the Sale Guidelines shall govern.



8. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the BIA, the Applicants shall pay amounts constituting rent or payable as rent under real property leases (including for greater certainty, common area maintenance charges, utilities, and realty taxes to the extent payable under the lease and any other amounts payable to the landlord under the lease) (collectively, “**Rent**”) or as otherwise may be negotiated between the Applicants and the landlord from time to time in accordance with the terms of the applicable real property on the first business day of each month, in advance (but not in arrears). Upon delivery of a notice of disclaimer, the Applicants shall pay all Rent owing by the Applicants to the applicable landlord in respect of such lease due for the notice period stipulated in the BIA to the extent that Rent for such period has not already been paid.

9. **THIS COURT ORDERS** that nothing in this Order shall amend or vary, or be deemed to amend or vary, the terms of the leases for the Closing Stores. Nothing contained in this Order or the Sale Guidelines shall be construed to create or impose upon the Applicants or the Consultant any additional restrictions not contained in the applicable lease.

10. **THIS COURT ORDERS** that nothing herein is, or shall be deemed to be a consent by any Landlord to the sale, assignment or transfer of any lease, or to grant to the Landlord any greater rights than already exist under the terms of any applicable lease.

11. **THIS COURT ORDERS** that until the Sale Termination Date, the Consultant, in assisting the Applicants to conduct the Sale, shall have the right to use, without interference by any intellectual property licensor, the Applicants’ trademarks, trade names and logos, customer/marketing lists, website and social media accounts as well as all licenses and rights granted to the Applicants to use the trade names, trademarks and logos of third parties, relating to and used in connection with the operation of the Closing Stores solely for the purpose of advertising and conducting the Sale in accordance with the terms of the Consulting Agreement, the Sale Guidelines and this Order, provided that the Consultant provides the Applicants with a copy of any proposed advertising five days prior to its use in the Sale.

## **CONSULTANT LIABILITY**

12. **THIS COURT ORDERS** that the Consultant shall act solely as an independent consultant to the Applicants and that it shall not be liable for any claims against the Applicants other than as expressly provided in the Consulting Agreement or the Sale Guidelines. More specifically:

- (a) The Consultant shall not be deemed to be an owner or in possession, care, control or management of the Closing Stores or the assets located therein or associated therewith or of GEEP's employees located at the Closing Stores;
- (b) The Consultant shall not be deemed to be an employer, or a joint or successor employer or a related or common employer or payor within the meaning of any legislation governing employment or labour standards or pension benefits or health and safety or other statute, regulation or rule of law or equity for any purpose whatsoever, and shall not incur any successorship liabilities whatsoever; and
- (c) GEEP and GESL shall bear all responsibility for any liability whatsoever (including without limitation losses, costs, damages, fines, or awards) relating to claims of customers, employees and any other persons arising from events and closings occurring at the Stores during and after the term of the Consulting Agreement, except in accordance with the Consulting Agreement.

13. **THIS COURT ORDERS** to the extent any of the Applicants' landlords may have a claim against the Applicants arising solely out of the conduct of the Consultant in assisting the Applicants to conduct the sale pursuant to this Order for which the Applicants have claims against the Consultant under the Consulting Agreement, the Applicants shall be deemed to have assigned free and clear such claims to the applicable landlord (the "**Assigned Landlord Rights**").

## **PAYMENTS TO THE CONSULTANT**

14. **THIS COURT ORDERS** that the Applicants are hereby authorized to remit, in accordance with the Consulting Agreement, all amounts that become due to the Consultant thereunder.

15. **THIS COURT ORDERS** that no Claims shall attach to any amounts payable by the Applicants to the Consultant pursuant to the Consulting Agreement, including any amounts that must be reimbursed by the Applicants to the Consultant, and the Applicants shall pay any such amounts to the Consultant free and clear of all Claims, notwithstanding any enforcement or other process, all in accordance with the Consulting Agreement.

16. **THIS COURT ORDERS** that notwithstanding (a) the pendency of these proceedings; (b) any application for a bankruptcy Order now or hereafter issued pursuant to the BIA in respect of Applicants or any bankruptcy Order made pursuant to any such applications; (c) any assignment in bankruptcy made in respect of the Applicants; (d) the provisions of any federal or provincial statute; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of encumbrances, contained in any existing loan documents, lease, mortgage, security agreement, debenture, sublease, offer to lease or other document or agreement (collectively, the “**Agreement**”) which binds the Applicants:

- (a) the Consulting Agreement and the transactions and actions provided for and contemplated therein (including the Sale Guidelines), including, without limitation, the payment of amounts due to the Consultant; and
- (b) Assigned Landlord Rights,

shall be binding on any trustee in bankruptcy that may be appointed in respect to the Applicants and shall not be void or voidable by any Person (as defined in the BIA), including any creditor of Applicants, nor shall they, or any of them, constitute or be deemed to be a preference, fraudulent conveyance, transfer at undervalue or other challengeable reviewable transaction, under the BIA or any applicable law, nor shall they constitute oppressive or unfairly prejudicial conduct under any applicable law.

17. **THIS COURT ORDERS** that notwithstanding (a) the pendency of these proceedings; (b) any application for a bankruptcy Order now or hereafter issued pursuant to the BIA in respect of Applicants or any bankruptcy Order made pursuant to any such applications; (c) any assignment in bankruptcy made in respect of the Applicants; (d) the provisions of any federal or provincial statute; or (e) any Agreements which binds the Applicants, any obligation to clean up or repair any

of the leased premises contained in this Order or the Sale Guidelines, shall be binding on any trustee in bankruptcy that may be appointed in respect to the Applicants and shall not be void or voidable by any Person (as defined in the BIA), including any creditor of Applicants, nor shall they, or any of them, constitute or be deemed to be a preference, fraudulent conveyance, transfer at undervalue or other challengeable reviewable transaction, under the BIA or any applicable law, nor shall they constitute oppressive or unfairly prejudicial conduct under any applicable law.

## **GENERAL**

18. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

19. **THIS COURT HEREBY REQUESTS** the aid and recognition of any Court, tribunal, regulatory or administrative bodies, having jurisdiction in Canada or in the United States of America, to give effects to this Order and to assist the Applicants, the Proposal Trustee and their respective 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 Applicants and to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Trustee in any foreign proceeding, or to assist the Applicants and the Proposal Trustee and their respective agents in carrying out the terms of this Order.

20. **THIS COURT ORDERS** that any interested party (including the Applicants and the Proposal Trustee) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the Order sought or upon such other notice, if any, as this Court may order.

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## SCHEDULE A

### SALE GUIDELINES

The following procedures shall apply to the Sale to be conducted at the Closing Stores of Green Earth Environmental Products and Green Earth Stores Limited (collectively, the “**Merchant**”). All terms not herein defined shall have the meaning set forth in the Consulting Agreement by and between Shawn Parkin (the “**Consultant**”) and the Merchant dated as of February 25, 2019 (the “**Consulting Agreement**”).

1. Except as otherwise expressly set out herein, and subject to: (i) the Approval Order or any further Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”); or (ii) any subsequent written agreement between the Merchant and the applicable landlord(s) (individually, a “**Landlord**” and, collectively, the “**Landlords**”) and approved by the Consultant in writing, or (iii) as otherwise set forth herein, the Sale shall be conducted in accordance with the terms of the applicable leases/or other occupancy agreements to which the affected Landlords are privy for each of the affected Closing Stores (individually, a “**Lease**” and, collectively, the “**Leases**”). However, nothing contained herein shall be construed to create or impose upon the Merchant or the Consultant any additional restrictions not contained in the applicable Lease or other occupancy agreement.
2. The Sale shall be conducted so that each of the Closing Stores remains open during its normal hours of operation provided for in its respective Lease until the respective sale termination date for such Closing Store. The Sale at the Closing Stores shall end by no later than the June 30, 2019 (the “**Sale Termination Date**”). With the consent of the Merchant and the Consultant, the Sale Termination Date may be extended to no later than July 30, 2019. Rent payable under the respective Leases shall be paid in accordance with the terms of the Approval Order.
3. The Sale shall be conducted in accordance with applicable federal, provincial and municipal laws and regulations, unless otherwise ordered by the Court.
4. All display and hanging signs used in connection with the Sale shall be professionally produced and all hanging signs shall be hung in a professional manner. Notwithstanding anything to the contrary contained in the Leases, the Merchant and the Consultant may advertise the Sale at the Closing Stores as an “everything on sale”, an “everything must go”, a “store closing” or similar theme sale at the Closing Stores (provided however that no signs shall advertise the Sale as a “bankruptcy”, a “going out of business” or a “liquidation” sale it being understood that the French equivalent of “clearance” is “liquidation” and is permitted to be used). Forthwith upon request from a Landlord, a Landlord’s counsel, the Merchant or the Proposal Trustee, the Consultant shall provide the proposed signage packages along with the proposed dimensions and number of signs (as approved by the Merchant pursuant to the Consulting Agreement) by e-mail or facsimile to the applicable Landlords or to their counsel of record. Where the provisions of the Lease conflict with the Sale Guidelines, these Sale Guidelines shall govern. The Merchant and the Consultant shall not use neon or day-glow or handwritten signage (unless otherwise contained in the sign package, including “you pay” or “topper” signs). In addition, the

Merchant and the Consultant shall be permitted to utilize exterior banners/signs at stand alone or strip mall Closing Stores or enclosed mall Closing Stores with a separate entrance from the exterior of the enclosed mall, provided, however, that where such banners are not explicitly permitted by the applicable Lease and the Landlord requests in writing that the banners are not to be used, no banners shall be used absent further Order of the Court, which may be sought on an expedited basis on notice to the service list in the NOI proceedings (the “**Service List**”). Any banners used shall be located or hung so as to make clear that the Sale is being conducted only at the affected Closing Store and shall not be wider than the premises occupied by the affected Closing Store. Exterior banners will not be used during the Sale. If a Landlord is concerned with “store closing” signs being placed in the front window of a Closing Store or with the number or size of the signs in the front window, the Consultant will meet with the Merchant and the Landlord to discuss the Landlord’s concerns and work to resolve the dispute. The Merchant and the Consultant shall not utilize any commercial trucks to advertise the Sale on the mall premises. The Merchant and the Consultant shall be permitted to utilize sign walkers and street signage; provided, however, such sign walkers and street signage shall not be located on the shopping centre or mall premises.

5. The Merchant and the Consultant shall not make any alterations to interior or exterior Closing Store lighting, except as authorized pursuant to the applicable Lease. The hanging of exterior banners or other signage, where permitted in accordance with the terms of these guidelines, shall not constitute an alteration to a Closing Store.
6. Conspicuous signs shall be posted in the cash register areas of each Closing Store to the effect that all sales are “final”.
7. The Merchant and the Consultant shall not distribute handbills, leaflets or other written materials to customers outside of any of the Closing Stores on any Landlord’s property, unless permitted by the applicable Lease or, if distribution is customary in the shopping centre in which the Closing Store is located. Otherwise, the Merchant and the Consultant may solicit customers in the Closing Stores themselves. The Merchant and the Consultant shall not use any giant balloons, flashing lights or amplified sound to advertise the Sale or solicit customers, except as permitted under the applicable Lease, or agreed to by the Landlord.
8. At the conclusion of the Sale in each Closing Store, the Merchant shall arrange that the premises for each Closing Store are in “broom-swept” and clean condition, and shall arrange that the Closing Stores are in the same condition as on the commencement of the Sale, ordinary wear and tear excepted. No property of any Landlord of a Closing Store shall be removed or sold during the Sale. No permanent fixtures (other than FF&E which for clarity is owned by the Merchant) may be removed without the applicable Landlord’s written consent unless otherwise provided by the applicable Lease. Any fixtures or personal property left in a Closing Store after the Sale Termination Date in respect of which the applicable Lease has been disclaimed by the Merchant shall be deemed abandoned, with the applicable Landlord having the right to dispose of the same as the Landlord chooses, without any liability whatsoever on the part of the Landlord. Nothing in this

paragraph shall derogate from or expand upon the Consultant's obligations under the Consulting Agreement.

9. Subject to the terms of paragraph 8 above and the Consulting Agreement, the Merchant, with the assistance of the Consultant, may sell FF&E which is located in the Closing Stores during the Sale. For greater certainty, FF&E does not include any portion of the Closing Stores' HVAC, sprinkler, fire suppression or fire alarm systems. The Merchant and the Consultant may advertise the sale of FF&E consistent with these guidelines on the understanding that any applicable Landlord may require that such signs be placed in discreet locations acceptable to the applicable Landlord, acting reasonably. Additionally, the purchasers of any FF&E sold during the Sale shall only be permitted to remove the FF&E either through the back shipping areas designated by the applicable Landlord, or through other areas after regular store business hours, or through the front door of the Closing Store during store business hours if the FF&E can fit in a shopping bag, with applicable Landlord's supervision as required by the applicable Landlord. The Merchant shall repair any damage to the Closing Stores resulting from the removal of any FF&E by the Merchant or by third party purchasers of FF&E from the Merchant.
10. The Merchant hereby provides notice to the Landlords of the Merchant of the Merchant's intention to sell and remove FF&E from the Closing Stores. The CRA and Consultant will arrange with each Landlord represented by counsel on the Service List and with any other applicable Landlord that so requests, a walk through with the CRA and the Consultant to identify the FF&E subject to the sale. The relevant Landlord shall be entitled to have a representative present in the Closing Store to observe such removal. If the Landlord disputes the Merchant's entitlement to sell or remove any FF&E under the provisions of the Lease, such FF&E shall remain on the premises and shall be dealt with as agreed between the Merchant, the Consultant and such Landlord, or by further Order of the Court upon application by the Merchant on at least two (2) days' notice to such Landlord. If the Merchant has disclaimed the Lease governing such Closing Store in accordance with the BIA, it shall not be required to pay rent under such Lease pending resolution of any such dispute (other than rent payable for the notice period provided for in the BIA), and the disclaimer of the Lease shall be without prejudice to the Merchant's claim to the FF&E in dispute.
11. If a notice of disclaimer is delivered pursuant to the BIA to a Landlord while the Sale is ongoing and the Closing Store in question has not yet been vacated, then: (a) during the notice period prior to the effective time of the disclaimer, the applicable Landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Merchant 24 hours' prior written notice; and (b) at the effective time of the disclaimer, the relevant Landlord shall be entitled to take possession of any such Closing Store without waiver of or prejudice to any claims or rights such Landlord may have against the Merchant in respect of such Lease or Closing Store, provided that nothing herein shall relieve such Landlord of its obligation to mitigate any damages claimed in connection therewith.
12. The Consultant and its agents and representatives shall have the same access rights to the Closing Stores as the Merchant under the terms of the applicable Lease, and the applicable

Landlords shall have the rights of access to the Closing Stores during the Sale provided for in the applicable Lease (subject, for greater certainty, to any applicable stay of proceedings).

13. The Merchant and the Consultant shall not conduct any auctions of Merchandise or FF&E at any of the Closing Stores.
14. The Merchant and the Consultant shall be entitled to include additional merchandise in the Sale; provided that (a) the additional merchandise is currently in the possession of the Applicants (including in its warehouse located in Ontario) and (b) the additional merchandise is of like kind and category and no lessor quality to the Merchandise, and consistent with any restriction on usage of the Closing Stores set out in the applicable Leases.
15. The Merchant shall designate a party to be contacted by the Landlords should a dispute arise concerning the conduct of the Sale. The initial contact person will be the Naveed Manzoor from the CRA office who may be reached by phone at 416-258-6145 or email at naveed@faanadvisors.com. If the parties are unable to resolve the dispute between themselves, the Landlord or Merchant shall have the right to schedule a “status hearing” before the Court on no less than two (2) days written notice to the other party or parties, during which time the Merchant shall cease all activity in dispute other than activity expressly permitted herein, pending the determination of the matter by the Court; provided, however, that if a banner has been hung in accordance with these Sale Guidelines and is thereafter the subject of a dispute, the Merchant shall not be required to take any such banner down pending determination of the dispute.
16. Nothing herein is, or shall be deemed to be a consent by any Landlord to the sale, assignment or transfer of any Lease, or to grant to the Landlord any greater rights than already exist under the terms of any applicable Lease.
17. These Sale Guidelines may be amended by written agreement between the Merchant, the Consultant and any applicable Landlord (provided that such amended Sale Guidelines shall not affect or bind any other Landlord not privy thereto without further Order of the Court approving the amended Sale Guidelines).

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

Proceeding commenced at Toronto

**LIQUIDATION PROCESS ORDER**  
**(DATED: MARCH 7, 2019)**

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**ONTARIO  
SUPERIOR COURT OF JUSTICE -  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**MOTION RECORD  
(RETURNABLE MARCH 7,2019)**

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