

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE	)	THURSDAY, THE 29 TH
	)	
JUSTICE CAVANAGH	)	DAY OF MAY, 2025

IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

B E T W E E N:

ARBAT CAPITAL GROUP LTD.

Applicant

and

THE SECOND CUP COFFEE COMPANY INC.

Respondent

AMENDED AND RESTATED INITIAL ORDER

THIS MOTION, made by the Applicant, Arbat Capital Group Ltd. (the “**Applicant**”), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) was heard this day at 330 University Avenue, Toronto, Ontario by judicial videoconference via Zoom.

ON READING the affidavit of Alexey Golubovich, affirmed May 19, 2025 (the “**First Golubovich Affidavit**”), the affidavit of Alexey Golubovich affirmed May 27, 2025 (the “**Second Golubovich Affidavit**”) and the Exhibits thereto, and the report (the “**First Report**”) of Grant Thornton Limited (“**GTL**”) in its capacity as Court-ordered monitor (in such capacity, the “**Monitor**”) of the Second Cup Coffee Company Inc. (the “**Debtor**”), and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant, The Second Cup Coffee Company

Inc. (the “**Debtor**”), Demetrios Ragas (“**Ragas**”), His Majesty the King in right of Canada, and for GTL, no one appearing for the Bank of Montreal (“**BMO**”) although duly served as appears from the affidavit of service of Kim Sellers, sworn May 27, 2025,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that Debtor is a company to which the CCAA applies.

POSSESSION OF PROPERTY AND OPERATIONS

3. **THIS COURT ORDERS** that the Debtor shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Debtor shall continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and Property. The Debtor is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

4. **THIS COURT ORDERS** that the Debtor shall be entitled to continue to utilize its cash management system currently in place, or replace it with another substantially similar cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Debtor of funds transferred, paid, collected or other dealt within the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as

hereinafter defined) other than the Debtor, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the, Cash Management System, an unaffected creditor under any plan or compromise or arrangement with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

5. **THIS COURT ORDERS** that the Debtor, in accordance with the cash flow forecast appended to the First Report, (the “**Cash Flow Forecast**”) shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) the fees and disbursements of any Assistants retained or employed by the Debtor in respect of these proceedings, at their standard rates and charges;
- (c) amounts owing for goods and services supplied to the Debtor on or after the date of this order if, in the opinion of the Monitor and the CRO, such goods and services are necessary for the operation or preservation of the Business or Property;
- (d) only with the consent of the Monitor, amounts owing for goods or services supplied to the Debtor prior to the Initial Order if, in the opinion of the Debtor and the Monitor, such payment is necessary or desirable to avoid disruption to the operation of the Business during the CCAA proceedings; and
- (e) any and all amounts that come due and owing to BMO.

6. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Debtor shall be entitled but not required to pay all reasonable expenses incurred by the Debtor in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers' insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Debtor following the date of this Order.

7. **THIS COURT ORDERS** that the Debtor shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes, and all other amounts related to such deductions or employee wages payable for periods following the date of this Order pursuant to the *Income Tax Act*, the *Canada Pension Plan*, the *Employment Insurance Act* or similar provincial statutes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Debtor in connection with the sale of goods and services by the Debtor, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order;
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Debtor; and
- (d) any and all amounts that come due and owing to BMO after the date of this Order.

8. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Debtor shall pay all amounts constituting rent or payable as rent under real property

leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Debtor and the landlord from time to time (“**Rent**”), for the period commencing from and including the date of this Order, monthly in equal payments on the first day of each month. On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

9. **THIS COURT ORDERS** that, except as specifically permitted herein, the Debtor is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Debtor to any of its creditors as of this date with the sole exception of such amounts payable to BMO in accordance with the Cash Flow Forecast; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business. For greater certainty, the Debtor shall continue to make any and all payments of principal, interest, and payments otherwise owing by the Debtor to BMO.

RESTRUCTURING

10. **THIS COURT ORDERS** that the Debtor shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Debtor to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

11. **THIS COURT ORDERS** that the Debtor shall provide each of the relevant landlords with notice of the Debtor's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Debtor's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Debtor, or by further Order of this Court upon application by the Debtor on at least two (2) days notice to such landlord and any such secured creditors. If the Debtor disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, 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 Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Debtor's claim to the fixtures in dispute.

12. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Debtor and the Monitor 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 leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Debtor in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

13. **THIS COURT ORDERS** that until and including August 28, 2025, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Debtor or the Monitor, or affecting the Business or the Property, except with the written consent of the Debtor and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Debtor or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

14. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the Debtor or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Debtor and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

15. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, except with the written consent of the Debtor and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

16. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Debtor, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Debtor, and that the Debtor shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Debtor in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and each of the Debtor and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

17. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Debtor. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

18. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Debtor with respect to any claim against any of the former, current or future directors or officers that arose before the date hereof and that relates to any obligations of the Debtor whereby the former, current or future directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Debtor, if one is filed, is sanctioned by this Court or is refused by the creditors of the Debtor or this Court.

19. **THIS COURT ORDERS** that during the Stay Period the Applicant shall take no further steps in enforcing any rights it may have as against shares in the Debtor held by Ragas, related to the Notice of Intention to Enforce Security delivered by the Applicant to Ragas on December 3, 2024.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. **THIS COURT ORDERS** that the Debtor shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Debtor after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

21. **THIS COURT ORDERS** that the directors and officers of the Debtor shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which

charge shall not exceed an aggregate amount of \$220,000, as security for the indemnity provided in paragraph 20 of this Order. The Directors' Charge shall have the priority set out in paragraphs 41 and 43 herein.

22. **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 Directors' Charge, and (b) the Debtor's directors and officers shall only be entitled to the benefit of the Directors' 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 20 of this Order.

APPOINTMENT OF MONITOR

23. **THIS COURT ORDERS** that GTL is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Debtor with the powers and obligations set out in the CCAA or set forth herein and that the Debtor and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Debtor pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

24. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor and approve in writing the Debtor's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Debtor, to the extent required by the Debtor, in its dissemination, to the Applicant in its capacity as lender under the A&R DIP Facility Term Sheet (defined below) and its counsel of financial and other information as may be required by the Applicant which may be used in these proceedings including reporting on a basis to be agreed with the Applicant;

- (d) advise the Debtor in its preparation of the Debtor's cash flow statements and reporting required by the Applicant, which information shall be reviewed with the Monitor and delivered to the Applicant as required by the Applicant;
- (e) 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 Debtor, to the extent that is necessary to adequately assess the Debtor's business and financial affairs or to perform its duties arising under this Order;
- (f) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (g) execute the CRO Engagement (as defined below) on behalf of the Debtor; and
- (h) perform such other duties as are required by this Order or by this Court from time to time.

25. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other Persons shall forthwith advise the Monitor of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Monitor, and shall deliver all such Property to the Monitor upon the Monitor's request.

26. **THIS COURT ORDERS** that all Persons shall forthwith advise the Monitor of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Monitor or permit the Receiver to make, retain and take away copies thereof and grant to the Monitor unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 26 or in paragraph 27 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Monitor due to the privilege

attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

28. **THIS COURT ORDERS** any and all financial institutions, banks and their affiliates, shall produce to the Monitor any and all Records, banking documents related to the Debtor, any transaction supporting document and any of the Records in its possession or control, having regard to the limitations of the financial institutions' retention and storage policies and practices, notwithstanding that any disclosure may include "personal information" about third parties as defined in *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c.5, as amended.

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

30. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of

a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the Ontario *Environmental Protection Act*, the *Ontario Water Resources Act*, or the Ontario *Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

31. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Debtor and the Applicant with information provided by the Debtor in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Debtor is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Debtor may agree.

32. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor 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 the Monitor by the CCAA or any applicable legislation.

33. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, the CRO (as hereinafter defined) and counsel to the Applicant shall be paid their reasonable fees and disbursements (including pre-filing fees and disbursements), in each case at their standard rates and charges, whether incurred prior to, on, or subsequent to the date of this Order, by the Debtor as part of the costs of these proceedings whether incurred prior to, on, or subsequent to the date of this Order. The Debtor is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, the CRO, and counsel for the Applicant on a weekly basis.

34. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

35. **THIS COURT ORDERS** that the Monitor, and counsel to the Monitor, the CRO, and counsel to the Applicant shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$500,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, 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 41 and 43 hereof.

DIP FINANCING

36. **THIS COURT ORDERS** that the Debtor is hereby authorized and empowered to obtain and borrow under the amended and restated debtor-in-possession term sheet dated as of May 29, 2025 between the Debtor, as the borrower, and the Applicant, as lender attached as Exhibit “D” to the Second Golubovich Affidavit (as may be further amended, restated, supplemented and/or modified from time to time, the “**A&R DIP Facility Term Sheet**”), in order to finance the Debtor’s working capital requirements, other general corporate purposes, accrued interest, expenses, and capital expenditures, all in accordance with the terms of the A&R DIP Facility Term Sheet, provided that borrowings under the A&R DIP Facility Term Sheet shall not exceed \$900,000 plus interest, fees and expenses, unless permitted by further Order of this Court.

37. **THIS COURT ORDERS** that the Debtor, through the CRO, is hereby authorized and empowered to execute and deliver the A&R DIP Facility Term Sheet such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the “**Definitive Documents**”), as are contemplated by the A&R DIP Facility Term Sheet or as may be reasonably required by the Applicant pursuant to the terms thereof, and the Debtor is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the Applicant under and pursuant to the A&R DIP Facility Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

38. **THIS COURT ORDERS** that the Applicant shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Facility Charge**”) on the Property, in the maximum amount of \$900,000 plus interest, fees, and expenses pursuant to the A&R DIP Facility Term Sheet, which DIP Facility Charge shall not secure an obligation that exists before this Order is made. The DIP Facility Charge shall have the priority set out in paragraphs 41 and 43 hereof.

39. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the Applicant may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Facility Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Facility Charge, the Applicant, upon three days notice to the Debtor and the Monitor, may exercise any and all of its rights and remedies against the Debtor or the Property under or pursuant to the A&R DIP Facility Term Sheet, Definitive Documents and the DIP Facility Charge, including without limitation, to cease making advances to the Debtor and set off and/or consolidate any amounts owing by the Applicant to the Debtor against the obligations of the Debtor to the Applicant under the A&R DIP Facility Term Sheet, the Definitive Documents or the DIP Facility Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Debtor and for the appointment of a trustee in bankruptcy of the Debtor; and
- (c) the foregoing rights and remedies of the Applicant shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Debtor or the Property.

40. **THIS COURT ORDERS AND DECLARES** that the Applicant shall be treated as unaffected in any plan of arrangement or compromise filed by the Debtor under the CCAA, or any proposal filed by the Debtor under the *Bankruptcy and Insolvency Act* of Canada (the “**BIA**”), with respect to any advances made under the A&R DIP Facility Term Sheet or the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

41. **THIS COURT ORDERS** that the priorities of the Directors' Charge, the Administration Charge and the DIP Facility Charge (together, the "**Charges**"), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$500,000);

Second – DIP Facility Charge (to the maximum amount of \$900,000 plus interest, fees, and expenses pursuant to the A&R DIP Facility Term Sheet); and

Third – Directors' Charge (to the maximum amount of \$220,000).

42. **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.

43. **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person, *except* that the Charges shall rank subordinate to any and all indebtedness owing by the Debtor to

- (a) the BMO and all security in favour of BMO to secure such indebtedness; and
- (b) the Crown in Right of Canada in respect of any claim it may have against the Debtor arising from statutory deemed trust amounts in favour of the Crown in Right of Canada which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes.

44. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Debtor shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge, the Administration Charge or the DIP Facility Charge, unless the Debtor also obtains the prior written consent of the Monitor,

the Applicant and the beneficiaries of the Directors' Charge and the Administration Charge, or further Order of this Court.

45. **THIS COURT ORDERS** that the Directors' Charge, the Administration Charge, the A&R DIP Facility Term Sheet, the Definitive Documents and the DIP Facility Charge 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**") and/or the Applicant thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to 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 Debtor, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the A&R DIP Facility Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by the Debtor of any Agreement to which it is a party;
- (b) neither the Debtor nor the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Debtor entering into the A&R DIP Facility Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Debtor pursuant to this Order, the A&R DIP Facility Term Sheet or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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

APPOINTMENT OF CHIEF RESTRUCTURING OFFICER

47. **THIS COURT ORDERS** that Maxim Lojevsky is hereby appointed as the Chief Restructuring Officer (“**CRO**”) over and in respect of the Debtor and shall have the powers and obligations set out in the engagement agreement between the Debtor and the CRO dated May 22, 2025 (the “**CRO Engagement**”), and enclosed to the affidavit of Jaclyn Tarola, sworn May 20, 2025 (the “**Tarola Affidavit**”).

48. **THIS COURT ORDERS** that the CRO Engagement is hereby approved, subject to such minor amendments as the parties thereto may agree to with the Monitor’s consent. The Monitor is hereby authorized and directed to execute the CRO Engagement, on behalf of the Debtor, in the form enclosed with the Tarola Affidavit and the Debtor is hereby authorized and directed to perform all of their its pursuant to the CRO Engagement.

49. **THIS COURT ORDERS** that subject to the terms of this Order, the CRO is hereby authorized to assist the Applicant, the Monitor, and the Debtor and to do all things, carry out all actions and perform all duties described in the CRO Engagement.

50. **THIS COURT ORDERS** that in addition to the rights and protections afforded to the CRO by this Court, the CRO shall not be deemed to be a director, officer or trustee of the Debtor. The CRO shall not take Possession of the Property and shall not, by fulfilling his obligations hereunder, be deemed to have taken or maintained possession or control of the Business or the Property, or any part thereof, and shall be extended the same protections afforded to the Monitor under paragraphs 29 and 30 above.

51. **THIS COURT ORDERS** that the CRO shall not incur any liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save an except for any liability or obligation incurred as a result of the CRO’s gross negligence or wilful misconduct. The Debtor shall indemnify the CRO against obligations and liabilities that he may incur as CRO after the commencement of the within proceedings except to the extent that the obligation was incurred as a result of the CRO’s gross negligence or wilful misconduct.

52. **THIS COURT ORDERS** that no action or other proceeding shall be commenced directly, or by way of counterclaim, third party claim or otherwise, against or in respect of the CRO, and

all rights and remedies of any Person against or in respect of the CRO are hereby stayed and suspended, except with: (i) written consent of the CRO and the Monitor; or (ii) leave of this Court.

SERVICE AND NOTICE

53. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in the Globe & Mail (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Debtor of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder; provided that the Monitor shall not be required to make the claims, names, and addresses or individual creditors publicly available unless otherwise ordered by this Court.

54. **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/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure 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 ‘<http://www.doanegrantthornton.ca/SecondCup>’.

55. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Debtor and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor’s creditors or other interested parties at their respective addresses as last shown on the records of the Debtor 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.

GENERAL

56. **THIS COURT ORDERS** that the Applicant, the CRO, or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

57. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Debtor, the Business or the Property.

58. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Debtor, the Monitor 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 Applicant, the Debtor, and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant, the Debtor, and the Monitor and their respective agents in carrying out the terms of this Order.

59. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

60. **THIS COURT ORDERS** that any interested party (including the Applicant, the CRO, and the Monitor) 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.

61. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

ARBAT CAPITAL GROUP LTD.
Applicant

and THE SECOND CUP COFFEE COMPANY -
INC...
Respondent

Court File No. CV-25-00743485-00CL

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

Proceeding Commenced at Toronto

AMENDED AND RESTATED INITIAL ORDER

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