

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

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In re:	)	
	)	Chapter 15
GROUPE DYNAMITE INC., <i>et al.</i> ,	)	
	)	Case No. 20-12085 (CSS)
Debtors in a Foreign Proceeding, <sup>1</sup>	)	
	)	(Joint Administration Requested)
	)	

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**DECLARATION OF FOREIGN REPRESENTATIVE PURSUANT TO 11 U.S.C.  
§ 1515 AND RULE 1007(a)(4) OF THE FEDERAL RULES OF BANKRUPTCY  
PROCEDURE AND IN SUPPORT OF VERIFIED PETITION FOR (I)  
RECOGNITION OF FOREIGN MAIN PROCEEDINGS, (II) RECOGNITION  
OF FOREIGN REPRESENTATIVE, AND (III) RELATED RELIEF  
UNDER CHAPTER 15 OF THE BANKRUPTCY CODE**

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I, Andrew Lutfy, to the best of my information and belief, state as follows:

1. I am over the age of 18 and, if called upon, could testify to all matters set forth in this declaration based upon my own personal knowledge except for those portions specified as being otherwise. I am making this declaration in accordance with section 1515 of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 1007(a)(4) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

2. I am the Executive Chairman of the Board of Directors of Groupe Dynamite Inc. (the “Foreign Representative”). I am intimately familiar with the above-captioned debtors (collectively, the “Debtors” or “Groupe Dynamite”), whose reorganization proceedings (the “Canadian Proceedings”) are currently pending in Quebec, Canada.

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<sup>1</sup> The last four digits of the Debtors’ tax identification number are as follows: (a) Groupe Dynamite Inc. (4210); (b) GRG USA Holdings Inc. (4293); and (c) GRG USA LLC (4008). Additional case information can be obtained on the website of the Debtors’ claims and noticing agent at <https://cases.omniagentsolutions.com/groupedynamite>. The location of the Debtors’ service address for purposes of these chapter 15 cases is 5592 Ferrier Street, Montreal, Quebec, Canada, H4P 1M2.

3. I submit this declaration in support of: (a) the official form chapter 15 petitions for the Debtors (the “Voluntary Petitions”); (b) the *Verified Petition for (I) Recognition of Foreign Main Proceedings, (II) Recognition of Foreign Representative, and (III) Related Relief Under Chapter 15 of the Bankruptcy Code* (the “Verified Petition”);<sup>2</sup> (c) the *Motion for Provisional Relief Pursuant to Section 1519 of the Bankruptcy Code* (the “Provisional Relief Motion”); (d) the *Motion for Order (I) Directing Joint Administration of Cases Under Chapter 15 of the Bankruptcy Code and (II) Authorizing Foreign Representative to File Consolidated Lists of Information Required by Bankruptcy Rule 1007(A)(4)* (the “Joint Administration Motion”); and (e) the *Motion for Order Scheduling Recognition Hearing and Specifying Form and Manner of Service of Notice* (the “Notice Procedures Motion”).

### **Background**

#### **I. Groupe Dynamite’s Business Operations.**

4. With its fashion brands Garage and Dynamite, Montreal-based Groupe Dynamite designs, markets and distributes apparel and accessories to 16 to 40 year old women through its network of 322 retail stores and its e-commerce platform in Canada and the United States. Since its creation in 1975, Groupe Dynamite has maintained consistent profitability and has thrived through macro events such as the September 11 attacks, the 2002-2004 SARS outbreak, and the financial crisis of 2007-2008.

5. In the last two years, Groupe Dynamite initiated and has been delivering on a company-wide transformation meant to gain a stronger position in a fast-changing industry and to adopt an agile mentality and methodology for retail. Notably, Groupe Dynamite has focused efforts on the overhaul of its product development process and as well as on a digital

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<sup>2</sup> Capitalized terms used but not otherwise defined shall have the meanings ascribed in the Verified Petition or the Initial Order, as applicable.

transformation to propel its online growth and become a digital-first retailer.

6. Over the years, Groupe Dynamite has developed a distinctive supply chain optimized for speed and operational efficiency, thus delivering best-in-class inventory metrics such as annual turnover. Generally, 90% of its inventory fully turns within 90 days. Moreover, Groupe Dynamite has invested aggressively towards building an omnichannel model that seamlessly and effortlessly connects with the consumer across all channels, leveraging innovation such as artificial intelligence, omnichannel fulfillment, and customer relationship management. Continual investment in further elevating its digital ambitions is a critical pillar to its future success.

7. Groupe Dynamite has consistently maintained best-in-class employee management. Its success has been recognized in recent years by the “Retail Council of Canada,” “Canada’s Top Employers for Youth,” “Top Montreal Employer,” and “Korn Ferry Engagement Performance Award.”

8. Groupe Dynamite has implemented a significant number of operational changes to adjust to the new COVID-19 paradigm, but has been unsuccessful in convincing some of its longstanding partners to do the same. In light of the refusal of certain landlords to negotiate and agree on a COVID-19 adjusted rental model and their lingering threat of terminating leases, Groupe Dynamite needs to avail itself of all available restructuring tools to achieve its goal of remaining successful and agile despite the pandemic, and minimizing impact on all of its stakeholders, including its customers, employees, suppliers, and ecosystem of other partners.

**B. Groupe Dynamite’s Brands.**

9. Groupe Dynamite operates 322 stores, employs more than 4,300 people in Canada

and the United States, and reached sales of close to \$600,000,000<sup>3</sup> in 2019.

### **1. Garage.**

10. Garage was founded in 1975, with the brand's first store opened in Place Versailles, Montreal, initially as a jeans store. In 1982, Andrew Lutfy joined the company as a stock clerk and grew within the business to ultimately become the sole shareholder in 2002.

Important milestones of Garage include:

- in 1999, it achieved the status of national retailer with a presence in all Canadian provinces; and
- in 2007, it first opened in the United States, with eight stores in the states of Maryland, New York, Pennsylvania, New Jersey, Virginia, and Florida.

11. Since its creation in 1975, Garage evolved to inspire new generations through its offerings of casual and feminine collections and fashion pieces. Garage was historically positioned to target a young adolescent clientele but the brand successfully repositioned itself to cater to an older, and broader customer base in recent years. Today, Groupe Dynamite operates 123 Garage stores in Canada and 82 Garage stores in the United States.

### **2. Dynamite.**

12. The Dynamite clothing brand was founded in 1984, opening its first store in Carrefour Laval. The accessible lifestyle brand styles and empowers young, confident career women. Important milestones include the launch of its e-commerce platform in Canada in 2013 and the opening of its first store in the United States in 2014. Today, Dynamite has 114 stores in Canada and three in the United States.

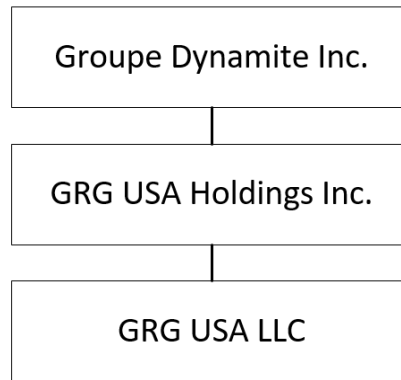
## **II. Corporate Structure and Governance.**

13. Groupe Dynamite is composed of Groupe Dynamite Inc. ("GDI"), GRG USA

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<sup>3</sup> All dollar amounts in this declaration are denoted in Canadian dollars (CAD), unless otherwise noted. As of September 4, 2020, \$1 (CAD) equals approximately \$0.77 (USD).

Holdings Inc. (“GRG Holdings”) and GRG USA LLC (“GRG LLC” and, collectively with GRG Holdings and GDI, “Groupe Dynamite”).



14. GDI is a privately held corporation incorporated under the *Canada Business Corporation Act* and is domiciled in Montreal, Quebec, and is indirectly held by Andrew Lutfy and his family. GDI operates the Debtors’ Canadian stores, Groupe Dynamite’s headquarters, and the group’s sole warehouse, and owns the intellectual property used by Groupe Dynamite, including the Dynamite and Garage brands. GDI also has an office in Shanghai employing twelve employees who perform quality tests and maintain the relationships with Groupe Dynamite’s suppliers.

15. GRG Holdings is 100% owned by GDI and owns 100% of the units of GRG LLC, which operates the stores in the United States. GDI beneficially owns 100% of the shares of Le Garage Boutique Inc., which not part of the Canadian Proceedings given that it is a dormant entity with no substantial assets or operations.

16. GRG LLC operates the stores in the United States, employing the store employees and leasing the premises. GRG LLC has managers physically present in the United States who manage the U.S. business and retail sales operations. Specifically, GRG LLC has two Regional Sales Directors and eight District Sales Managers, who determine the products to be purchased

from suppliers, including GDI.

17. The Debtors function as an integrated North American business. Most decisions for the corporate group are centralized at the head office in Montreal:

- all members of the management are generally located in Montreal, including:
  - Liz Edmiston, President and Chief Executive Officer;
  - Mario Petraglia, Chief Operating Officer and Chief Transformation Officer;
  - Martin Thibodeau, Chief Technology & Information Office;
  - Guy Vallières, Vice President, Finance and Administration;
  - Ian Richards, Senior Vice President, Digital & Loyalty;
  - Stacie Beaver, Executive Vice-President, Merchandising for Garage;
  - Donna Lutfy, Vice President Sourcing;
  - Marie-Soleil Tremblay, Senior Vice President, Sales, Operations & Regional Product Intelligence;
  - Sarah Paula Brami, Vice President, Talent & Culture;
  - Catherine Brisebois, Vice President, Transformation & Logistics; and
  - Christian Roy, Vice President, Legal Affairs and Corporate Secretary.
- the human resources, accounting, marketing, finance, and administrative functions are located in Montreal;
- all information technology functions are provided out of Montreal;
- new business development initiatives are made and planned out of Montreal;
- the global supply chain is managed from Montreal;
- most of the Debtors' treasury management functions, including management of accounts receivable and accounts payable, are in Montreal; and
- the Debtors' indebtedness is comprised of major funding by Canadian banks, including National Bank of Canada as agent.

18. While GRG LLC's officers and certain administrative, management, and financial

functions are located in Canada as mentioned above, it has managers physically present in the United States who manage the U.S. business and retail sales operations, including two Regional Sales Directors and eight District Sales Managers, and GRG LLC engages with GDI to determine the products to be purchased from suppliers, including GDI.

19. GDI has a legal board of directors with a majority of independent international caliber members. The board is composed of:

- Andrew Lutfy, Executive Chairman of Groupe Dynamite and Carbonleo, who has been part of Groupe Dynamite for more than 30 years;
- Ash EIDifrawi, Chief Marketing and Customer Experience Officer at Aspen Dental;
- Andy Janowski, Chief Executive Officer and Chairman of the board of J. Hilburn, who has more than 30 years of experience in the apparel and luxury goods industry; and
- Chris Arsenault, Cofounder, President and Chief Executive Officer of iNovia Capital, who has more than 25 years of experience in investment.

**B. Lease Portfolio.**

20. Groupe Dynamite's stores are strategically located in urban centers, in order to best reach the clientele targeted by each of its brands. As of August 1, 2020, Groupe Dynamite had 237 stores across Canada, of which 164 are located in the provinces of Quebec and Ontario, and 85 stores in the United States with a strong presence in all significant urban centers, namely New York, Chicago, Seattle, Los Angeles, and Houston.

21. Approximately 90% of Groupe Dynamite's occupancy costs are based on the old, pre-pandemic model of a monthly fixed rate, and 10% are based on a percentage of sales. As is explained below, Groupe Dynamite is now facing the necessity to reduce its footprint and rent expenses in order to ensure its viability in the long-term and to continue to thrive as a leader in the retail industry. Despite good faith efforts to renegotiate its lease portfolio, Groupe Dynamite has not been able to secure any satisfying agreements with a vast majority of landlords.

### **III. Groupe Dynamite's Financial Situation.**

#### **A. Short-Term Effects of the Pandemic.**

22. While Groupe Dynamite's recent transformation efforts led to a record-breaking 2019 year and a strong start of 2020, the COVID-19 pandemic severely affected its business. On March 11, 2020, the World Health Organization declared a global pandemic and tightened preventive hygiene recommendations (elimination of physical contact, end of gatherings and demonstrations, non-essential travel, quarantines, among others). Progressively, governments around the globe started to implement measures that minimized all non-priority services and activities. In Canada and the United States, the retail industry was badly hit as shopping centers and stores became subject to mandatory shutdowns. Such closures were initially implemented as temporary measures for a few weeks, but governments have extended them for various lengthy periods of time.

23. On March 17, 2020, Groupe Dynamite closed all its stores in Canada and in the United States. On March 20, 2020, 90% of Groupe Dynamite's 4,300 employees were temporarily laid off as a result of stores closures. Overnight, Groupe Dynamite went from operating an integrated, omnichannel model marrying digital with an in-store experience, to operating as a digital-only retailer.

24. Groupe Dynamite was quick to react and immediately shifted focus to operating and optimizing its e-business. In the period between March and May 2020, when most stores were closed, online sales have increased of 220% compared to the same period versus the previous year. Nonetheless, the increase in digital sales during this period did not offset the massive impact of store closures and of Groupe Dynamite's overall sales drop by 50% compared to the same period last year.



**B. Lingering Effects of COVID-19 Pandemic.**

25. Groupe Dynamite has observed a 40% reduction in traffic to its stores caused by several factors all interlinked to the COVID-19 pandemic, including the fact that city centers, where most of the stores are located, are nearly vacant as a result of social distancing restrictions, and that the closure of the United States – Canada border has greatly reduced tourist traffic.

26. As of September 3, 2020, 13 stores were still closed, notably due to a mandatory shutdown of malls in California since June 13, 2020. The negative effects are compounded by an increase of 23 % of operating costs related to the health and safety measures added to protect the employees and customers, including strict social distancing measures and restrictions around product handling. Since the start of the pandemic when its stores closed on March 17, 2020, Groupe Dynamite has taken several measures to mitigate the negative effects of the pandemic:

- deferring non-critical capital expenditures;
- reducing 95% of its workforce temporarily;
- all remaining employees at 20% reduction in salary until stores reopened: the Board of Directors and senior management remain on reduced pay;
- cancelling significant on-order in order to limit exposure and manage inventory levels;
- editing the collections for both brands to reflect the customers' shift towards a more casual lifestyle;
- investing in digital marketing to acquire new customers and boost digital sales;
- entering into business arrangements agreed upon with Groupe Dynamite's vendors;
- negotiating agreements with the Lenders to ensure GDI's financial sustainability; and
- gradually reopening stores with reduced opening hours.

27. The reopening of the stores has been slow and spanned over more than three months. On May 4, 2020, only 3% of the stores were reopened. This figure had only risen to 68% by June 22, 2020 and Groupe Dynamite's highest performing stores were among the last to

re-open. Since the start of the pandemic, each store was closed an average of 80 days due to mandatory shutdowns, with variations depending on the jurisdictions where stores are located.

28. As a result of the COVID-19 pandemic, Groupe Dynamite has not paid any rent for the months of April to September 2020, and considers that no rent is payable for the respective periods during which it is prevented to operate its stores, including as a result of government mandated shutdowns. As of the date hereof, GDI's and GRG LLC's unpaid rents amounted to approximately \$35,000,000 and \$17,000,000 to their landlords, respectively, which amounts are under review as of today in order to take into consideration COVID-19 store closures.

29. Unfortunately, from the end of June to August, Groupe Dynamite has unsuccessfully tried to renegotiate the leases of its stores in order to limit its losses. On June 29, Groupe Dynamite met its landlords to present them its business plan, and ask a rent abatement and to amend the leases to a new COVID-friendly lease model. However, after two months of negotiations with the landlords through an experienced team of brokers, Groupe Dynamite has only been able to enter into agreements regarding 22 out of 322 leases.

30. Therefore, despite a progressive reopening of stores since May, the pressure resulting from the COVID-19 dictated store closures in the short-term coupled with a slow progressive return of consumers, workers and tourists in urban areas has put an untenable strain on Groupe Dynamite's business and financial affairs.

31. There is also looming uncertainty for the foreseeable future. Groupe Dynamite, like other players in the retail industry, cannot predict with certainty how consumer traffic patterns will evolve in the next years, and whether the retail market will go back to some sort of normal, or whether there will be permanent shifts.

**C. Groupe Dynamite’s Current Financial Situation.**

32. As of August 1st, 2020, the Debtors had, on a consolidated basis, total liabilities amounting to approximately \$357,000,000, as appears from the Consolidated Balance Sheet as of August 1, 2020 (filed under seal in the Canadian Proceedings). As of August 1, 2020, Groupe Dynamite had assets with a book value of approximately \$192,000,000, consisting mostly of property and equipment as well as of inventory and intangible, as appears from its August 1, 2020 Consolidated Balance Sheet (filed under seal in the Canadian Proceedings). The realization value of these assets, in a liquidation, would be substantially lower than the book value.

33. Since the onslaught of the pandemic, Groupe Dynamite’s sales decreased by approximately a third as compared to the same period in 2019. Despite the optimization of use of cash on hand, Groupe Dynamite expects that it will not be able to meet their obligations as they generally become due within reasonable proximity of time as compared with the 13 weeks reasonably required to implement a restructuring.

34. Therefore, the Debtors reviewed its strategic alternatives and Groupe Dynamite determined that it was in the best interest of all of its stakeholders to initiate proceedings under the Companies’ Creditors Arrangement Act (the “CCAA” and the “CCAA Proceedings”).

**IV. Groupe Dynamite’s Proposed Restructuring.**

35. Groupe Dynamite’s proposed restructuring has two purposes. *First*, it wants to redefine a new COVID-friendly operating model with its landlords by disclaiming a minority of its leases which are deeply unprofitable stores, and renegotiating the leases of unprofitable stores or, failing reaching an acceptable agreement, also disclaiming such leases. *Second*, Groupe Dynamite would like to propose a compromise to its creditors regarding the liabilities incurred since the initial phase of the pandemic.

36. Groupe Dynamite therefore intends to implement a simplified and efficient claims

procedure in the Canadian Proceedings and elaborate a plan of compromise or arrangement that will allow its creditors to maximize recovery and a return in a restructured and financially healthy entity that will be ready to face the challenging times that are being faced by the retail industry.

37. The prospects for these restructuring efforts are significantly enhanced if this Bankruptcy Court grants the Provisional Relief Motion and extends the protection under the CCAA on the terms of the Initial Order and the Amended and Restated Initial Order to the United States.

## **V. Groupe Dynamite's Stakeholders**

### **A. Lenders**

38. A banking syndicate composed of National Bank of Canada, Bank of Montreal, The Toronto-Dominion Bank and Fédération des caisses Desjardins du Québec (the "Lenders") has granted the following credit facilities to GDI by entering into a credit agreement dated February 28, 2020, which was amended pursuant to a First Amending Agreement to the Credit Agreement dated as of April 30, 2020, as entered into between GDI, as borrower, National Bank of Canada, as administrative agent, and the Lenders and a Second Amending Agreement to the Credit Agreement dated as of July 3, 2020, as entered into between GDI, as borrower, National Bank of Canada, as administrative agent, and the Lenders (the "Credit Agreement"), in order to finance general corporate purposes, including the financing of ongoing operations, working capital requirements and store openings and renovations and the refinancing of certain facilities:

- a revolving facility of up to \$115,000,000, currently temporarily reduced;
- a swingline facility of up to \$10,000,000; and
- a term loan of \$100,000,000.

39. As of August 1, 2020, GDI's indebtedness towards the Lenders totaled

\$149,444,641. As a security for the payment of the obligations of Groupe Dynamite to them, the Lenders, through their agent, hold a first lien on all movable property of each of GDI, GRG Holdings, and GRG LLC, subject to certain exceptions, as well as guarantees by GRG Holdings and GRG LLC.

## **B. Employees**

40. As of August 31, 2020, Groupe Dynamite employed close to 4,300 persons, including 450 persons at its head office and 80 at its warehouse in Montreal, making Groupe Dynamite a major employer in the Montreal retail market. In Canada, Groupe Dynamite employs in its stores a total of 2,951 people:

<b>Province</b>	<b># Full-time employees</b>	<b># Part-time employees</b>	<b>Total</b>
Ontario	261	796	1057
Québec	242	696	938
Alberta	78	248	326
British Columbia	69	188	257
Manitoba	25	96	121
New Brunswick	7	30	37
Newfoundland	11	42	53
Nova Scotia	19	59	78
Prince Edward Island	7	7	14
Saskatchewan	17	53	70

41. In the United States, Groupe Dynamite employs 866 people in its stores, located in 30 different states.

42. All amounts owed to Groupe Dynamite's employees are paid in the ordinary course of business. Groupe Dynamite does not maintain any pension or retirement plans.

## **C. Landlords**

43. As indicated above, Groupe Dynamite has relationships with landlords to operate

its 322 stores.

**D. Credit Card Payment Processors.**

44. Groupe Dynamite deals with Chase Merchant Services and Paysafe, credit card payment processors (the “Payment Processors”). The Payment Processors treat payments made by Groupe Dynamite’s customers by credit cards, both in store and through its e-commerce platform. As most of customers’ purchases today are made through credit card payments, it is essential for Groupe Dynamite’s continuous operations that Payment Processors keep providing their services. Under their current payment practices, the Payment Processors remit to the Debtors the e-commerce payments within a day and in-store payments within two days, without any holdback or reserve, even though Payment Processors are contractually allowed to place amounts owed to Groupe Dynamite in a reserve account.

**E. Other Significant Unsecured Creditors**

45. As of August 31, 2020, GDI owes \$18,227,110.91 and \$17,355,287.40 to trade and non-trade suppliers, respectively, and GRG LLC owes USD 733,418.98 to non-trade suppliers. A significant portion of Groupe Dynamite’s suppliers are small and medium enterprises located in Asia, from whom Groupe Dynamite’s supply chain largely depends on for production inputs.

46. GDI and GRG LLC also offer gift cards to their customers. Such commitments represent, according to Groupe Dynamite’s calculation, a potential liability of \$5,177,585 for GDI and USD 1,444,257 for GRG LLC, as of August 1st, 2020. Groupe Dynamite intends to continue to honor all gift cards.

47. All amounts owed to the tax authorities by the Debtors are paid in the normal course and there is therefore no known past due amount owed to tax authorities.

**F. The U.S. Customs and Border Protection.**

48. GRG LLC's imports were audited for its fiscal year 2016 by the U.S. Customs and Border Protection, which raised questions regarding the relationship between GRG LLC and GDI and whether the goods imported by GRG LLC were an inter-company transfer of goods or a commercial sale.

49. Beginning in April 2019, the U.S. Customs and Border Protection ("USCBP") began issuing bills for additional duties to GRG LLC. Currently, the outstanding bills actually total \$7,041,926, none of which have been paid to date. These bills are contested by GRG LLC, as USCBP failed to follow the hierarchy of valuation methods established by statute and is inconsistent with prior USCBP rulings and court decisions addressing similar related party transactions. GRG LLC has in the interim nevertheless updated its process in order to take into account some of the issues raised by the USCBP.

50. Groupe Dynamite intends to address the claims of USCBP in the course of the claims process to be implemented with the assistance of the Proposed Monitor and the American external counsel already retained for this matter.

**VI. The Canadian Proceedings.**

51. On September 8, 2020, Groupe Dynamite commenced the Canadian Proceedings with the Canadian Court pursuant to sections 9, 11, 11.51, 11.52, and 23 of the CCAA with the goal of restructuring its operations and present a compromise or arrangement to its creditors under the protection of the Canadian Court offered by the CCAA. On September 8, 2020, the Superior Court of Quebec (Commercial Division) (the "Canadian Court") rendered an interim order (the "Initial Order"). The Initial Order includes a "no default" provision and is attached to the Provisional Relief Motion as Exhibit 1. More specifically paragraphs 66 and 67 of the Initial Order provide as follows:

**ORDERS** that no Person shall commence, proceed with or enforce any Proceedings against any of the Directors, employees, legal counsel or financial advisors of the Debtors or of the Monitor in relation to the Business or Property of the Debtors, without first obtaining leave of this Court, upon ten (10) days' written notice to the Debtors counsel, the Monitor's counsel, and to all those referred to in this paragraph whom it is proposed be named in such Proceedings.

**DECLARES** that this Order and any proceeding or affidavit leading to this Order, shall not, in and of themselves, constitute a default or failure to comply by the Debtors under any statute, regulation, licence, permit, contract, permission, covenant, agreement, undertaking or other written document or requirement.

Initial Order, ¶ 66, 67.

52. In addition, the Initial Order expressly requests that courts in the United States recognize the Canadian Proceedings to aid and assist the Canadian Court in carrying out the terms of the Initial Order. Paragraphs 73 and 74 of the Initial Order provide, in relevant part:

**AUTHORIZES** Groupe Dynamite Inc. to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America, or elsewhere, for orders which aid and complement this Order and any subsequent orders of this Court and, without limitation to the foregoing, any orders under Chapter 15 of the U.S. Bankruptcy Code, including an order for recognition of these CCAA proceedings as "Foreign Main Proceedings" in the United States of America pursuant to Chapter 15 of the U.S. Bankruptcy Code, and for which Groupe Dynamite Inc. shall be the foreign representative of the Debtors (the "Foreign Representative"). All courts and administrative bodies of all such jurisdictions



are hereby respectively requested to make such orders and to provide such assistance to the Debtors and the Foreign Representative as may be deemed necessary or appropriate for that purpose.

**REQUESTS** the aid and recognition of any Court, tribunal, regulatory or administrative body in Canada, the United States of America or elsewhere, to give effect to this Order and to assist the Debtors, 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 Debtors, and the Monitor as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor or the authorized representative of the Debtors in any foreign proceeding, to assist the Debtors, and the Monitor, and to act in aid of and to be complementary to this Court, in carrying out the terms of this Order

Initial Order, ¶¶ 73, 74.

53. Following entry of the Initial Order, the Debtors will seek entry by the Canadian Court of an amended and restated initial order (the “Amended and Restated Initial Order”), approximately ten days from the date thereof.

54. Although each Debtor’s respective management and Board of Directors remains in place, each Debtor’s assets and affairs are subject to the supervision of the Canadian Court during the pendency of the Canadian Proceedings.

55. I believe recognition of the Canadian Proceedings will not undermine the rights that United States creditors typically enjoy in a chapter 11 proceeding, as affected creditors will have the opportunity to the participate in the Canadian Proceedings under the supervision of the Canadian Court.

56. The Debtors are requesting the following relief from the Canadian Court as part of the Initial Order:

- appointment of the Proposed Monitor;
- stay of all proceedings against the Debtors and their property;
- approving a priority charge on the Debtors' assets in favor of the Debtors' advisors and the Debtors' directors and officers;
- authorizing the Debtors to file a plan of arrangement;
- continuation of ordinary course services and operations;
- initiate a claims process under the CCAA;
- certain Restructuring events, including, the authority to permanently downsize the business, disclaim certain leases and contracts subject to the procedures outlined in the Initial Order;
- approving interim financing and granting an interim lender charge;
- permitting the Debtors to honor gift cards;
- sealing certain financial information;
- authorizing the Debtors to pay all outstanding and future wages, salaries, bonuses, expenses, benefits and other employee benefits; and
- authorizing the Debtors to pay the pre-filing claims of certain critical suppliers up to an aggregate amount of \$5,000,000, with the consent of the Monitor.

57. The Debtors are requesting the following additional relief from the Canadian Court as part of the Amended & Restated Initial Order:

- authority to forego payment of rent that comes due after the commencement of the Canadian Proceedings for vacated stores and stores in locations with a mandatory lockdown order;
- approval of sale guidelines for stores where Groupe Dynamite has sent the landlord a notice to disclaim the lease;
- other ancillary relief in connection with anticipated issues with leases

**VII. Appointment as Foreign Representative and Filing of the Verified Petition.**

58. On September 3, 2020, the Board of Directors of GDI, (the “Board”) appointed Groupe Dynamite Inc. as the “foreign representative” as defined in section 101(24) of the Bankruptcy Code for purposes of the Canadian Proceedings.

59. On September 3, 2020, the Board authorized Groupe Dynamite Inc. to file the Verified Petition seeking recognition of the Canadian Proceedings as foreign main proceedings under chapter 15 of the Bankruptcy Code. A copy of the applicable resolution is attached as Exhibit B to the Verified Petition.

60. It is my understanding that Groupe Dynamite Inc. satisfies the definition of a “foreign representative” as that term is defined in section 101(24) of the Bankruptcy Code.

61. Of the Debtors, two (2) are incorporated in Delaware, and the Debtor otherwise has property in Delaware in the form of interests in corporate stock and a limited liability company formed in Delaware whose chapter 15 cases are pending in this district.

62. Therefore, on the Petition Date, Groupe Dynamite Inc. filed the Verified Petition pursuant to sections 1504 and 1515 of the Bankruptcy Code commencing these chapter 15 cases in the District of Delaware, seeking recognition of the Canadian Proceedings as “foreign main proceedings,” as such term is defined in section 1502(4) of the Bankruptcy Code, and seeking other necessary or appropriate relief in support of the Canadian Proceedings. I have been informed that the Bankruptcy Code provides for recognition of a foreign proceeding as a “foreign main proceeding” if such foreign proceeding is a “foreign proceeding” pending in a country where the debtor has “the center of its main interests.” *See* 11 U.S.C. § 1517(b)(1).

63. I have been informed that the Canadian Proceedings are “foreign proceedings” as they are a collective judicial proceeding authorized and supervised by the Canadian Court under the CCAA and pursuant to the Initial Order. It is my understanding that for these reasons, the

Canadian Proceedings qualify as “foreign proceedings” as that term is defined in Section 101(23) of the Bankruptcy Code. In compliance with Section 1515(b) of the Bankruptcy Code, a certified copy of the Initial Order, which commenced the Canadian Proceedings, is attached to the Provisional Relief Motion as Exhibit 1.

64. In addition, I believe that each of the Debtors’ has their center of main interests in Montreal, Quebec, Canada as such term is used in section 1502(4) of the Bankruptcy Code. The Debtors have substantially more ties to Canada than to any other country. GRG Holdings’ and GRG LLC’s parent company, GDI, is a Canadian corporation that has a 100 percent ownership interest in the remaining Debtors. Additionally, the Debtors are an integrated, complex enterprise, and numerous of the Debtors’ administrative, support, and other functions are performed on a centralized basis and managed in Canada, namely:

- a. the Debtors’ worldwide operations are overseen by and report to the Chief Executive Officer of GDI located at the Groupe Dynamite international headquarters in Montreal, Quebec, Canada (the “Head Office”);
- b. a large part of the Debtors’ senior management team is located in Montreal, Quebec, Canada;
- c. a large part of the Debtors’ creative, strategic and key operating decisions and key policy decisions are made by and/or subject to approval from the Debtors’ senior management located in Montreal, Quebec, Canada;
- d. key human resources decisions pertaining to, *inter alia*, payroll budgets and augmentation or reduction of employee headcount as per the approved budget, are subject to the approval of the Debtors’ senior management located in Montreal, Quebec, Canada;
- e. a large part of the Debtors’ key accounting decisions and all plans, budgets and financial projections are subject to the approval of the Debtors’ senior management located in Montreal, Quebec, Canada;
- f. a large part of the Debtors’ planning, budgeting, management of tax, treasury and cash management and preparation of financial projections is done from Montreal, Quebec, Canada;

- g. all material and/or long-term contracts and expenses are subject to the approval of the Debtors' senior management located in Montreal, Quebec, Canada;
- h. marketing and business development initiatives are overseen from the Head Office in Montreal, Quebec, Canada;
- i. corporate governance and regulatory compliance for the Debtors is overseen from its management team located in Montreal, Quebec, Canada;
- j. meetings for management and senior staff of the Debtors, including board meetings, are regularly held in Montreal, Quebec, Canada;
- k. senior management and all sales, manufacturing and operations staff report to their respective senior executives, who, ultimately, report to Groupe Dynamite Inc.'s Chief Executive Officer, who is based in Montreal, Quebec, Canada; and
- l. most directors of the Debtors are based in Montreal, Quebec, Canada, and most board meetings take place there.

65. A significant part of the Debtors' stakeholders are located in Canada, including over 2,300 employees, its Canadian landlords, and the Lenders. In addition, many of the Debtors' large contracts are governed by Canadian law, including the Credit Agreement, which is governed by the laws of Quebec. The Debtors also have significant assets located in Canada, including inventory and equipment at their 123 Canadian stores, their distribution center, and their headquarters in Montreal. Based on these facts, I believe that recognition of the Canadian Proceedings as foreign main proceedings is warranted.

66. I also believe recognition of Groupe Dynamite Inc. as the Debtors' "foreign representative" and recognition of the Canadian Proceedings as "foreign main proceedings" are consistent with the purpose of chapter 15 and will allow the Debtors to restructure in the most efficient manner without jeopardizing the creditors' rights.

67. The Debtors are affiliates of each other and each of their cases were filed on the Petition Date in this court (the "Bankruptcy Court"). Accordingly, I believe that joint

administration of these chapter 15 cases for procedural purposes only, as well as permitting the filing of consolidated lists of the information required by Bankruptcy Rule 1007(a)(4), will be an administrative convenience for the Bankruptcy Court, the court clerk's office, and interested parties.

68. Further, I believe that noticing procedures are appropriate in light of the voluminous amount of creditors, potential creditors, and other parties of interest, all of whom need to be provided with, among other things, notice of the entry of the provisional order, the proposed final order, the recognition objection deadline, and the recognition hearing. The Foreign Representative has prepared a form of notice advising of these and related matters (the "Notice of Recognition Hearing"), a copy of which is annexed to the Notice Procedures Motion. Under the facts and circumstances of the Debtors' chapter 15 cases, I submit that service of the Recognition Hearing Notice in the manner proposed in the Notice Procedures Motion will provide those parties identified as the Notice Parties in the Notice Procedures Motion with due and sufficient notice of the relief requested in the Recognition and Relief Motion and associated objection deadline and hearing dates.

69. Also, for the reasons set forth in the Verified Petition, I submit that recognition of the Canadian Proceedings is necessary and appropriate for the benefit of the Debtors, their creditors, and other parties in interest.

70. In accordance with the foregoing, I present the following consolidated statements for the Debtors as a whole.

#### **VIII. Statement Pursuant to Section 1515 of the Bankruptcy Code.**

71. I am informed that section 1515 of the Bankruptcy Code provides, in pertinent part, as follows:

- a. A foreign representative applies to the court for recognition of a foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.
- b. A petition for recognition shall be accompanied by—
  - i. a certified copy of the decision commencing such foreign proceeding and appointing the foreign representative;
  - ii. a certificate from the foreign court affirming the existence of such foreign proceeding and of the appointment of the foreign representative; or
  - iii. in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of such foreign proceeding and of the appointment of the foreign representative.
- c. A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

72. Pursuant to section 1515(b) of the Bankruptcy Code, the board resolutions appointing the Foreign Representative are attached to the Verified Petition as Exhibit B, respectively. Additionally, the Initial Order is attached to the Provisional Relief Motion as Exhibit 1. The Board of GDI passed board resolutions appointing Groupe Dynamite Inc. as the Foreign Representative, authorizing Groupe Dynamite Inc. to file the Verified Petition, and authorizing Groupe Dynamite Inc. to commence these chapter 15 cases.

73. Pursuant to section 1515(c) of the Bankruptcy Code, I am aware of the definition of a “foreign proceeding” under section 101(23) of the Bankruptcy Code, and I believe the Canadian Proceedings are “foreign proceedings” as defined therein. I am aware of no other foreign proceedings with respect to the Debtors.

**IX. Disclosure Pursuant to Bankruptcy Rule 1007(a)(4).**

74. I am informed that Bankruptcy Rule 1007(a)(4) provides, as follows:

In addition to the documents required under § 1515 of the Code, a foreign representative filing a petition for recognition under chapter 15 shall file with the petition: (A) a corporate ownership statement containing the information described in Rule 7007.1; and (B) unless the court orders otherwise, a list containing the names and addresses of all persons or bodies authorized to administer foreign proceedings of the debtor, all parties to litigation pending in the United States in which the debtor is a party at the time of the filing of the petition, and all entities against whom provisional relief is being sought under § 1519 of the Code.

75. I am further informed that Bankruptcy Rule 7007.1 provides in pertinent part that a corporate ownership statement:

. . . identif[y] any corporation, other than a governmental unit, that directly or indirectly owns 10% or more of any class of the corporation's equity interests, or states that there are no entities to report under this subdivision.

**A. Corporate Ownership Statement.**

76. In compliance with the requirements of Bankruptcy Rule 1007(a)(4)(A), the following is a corporate ownership statement of the Debtors, which identifies any corporation that directly or indirectly owns 10% or more of any class of the Debtors' equity interests:

77. The Debtors are each indirectly wholly owned by Andrew Lutfy, Lutfy Family Trust, AJL Family Trust 2017, Alexander Lutfy, and Jessica Lutfy.

78. Andrew Lutfy, Lutfy Family Trust, and AJL Family Trust 2017 together own 100% of the equity interests of 3752372 Canada Inc.: Andrew Lutfy owns 1,000,000 Class SV shares, 8,474,731 Class G shares and 887 Class I shares, Lutfy Family Trust owns 1,000 Class I shares, and AJL Family Trust 2017 owns 1,000 Class I shares. 3752372 Canada Inc. owns 100% of the equity interests of 10644579 Canada Inc. Alexander Lutfy, Jessica Lutfy, and 10644579 Canada Inc. together own 100% of the equity interests of GDI: Alexander Lutfy owns 249,999.5 Class G shares, Jessica Lutfy owns 249,999.5 Class G shares, and 10644579 Canada Inc. owns 201 Class B shares and 3,000,200 Class C shares.

79. GDI owns 100% of the equity interests of GRG USA Holdings Inc., and GRG



USA Holdings Inc. owns 100% of the equity interests of GRG USA LLC.

**B. List of Administrators.**

80. In compliance with the requirements of Bankruptcy Rule 1007(a)(4)(B), the Debtors, as directed by their councils of representatives, board of directors and the Foreign Representative, shall maintain control of and be authorized to administer the Canadian Proceedings. The service address for all of the Debtors in these chapter 15 cases is: 5592 Ferrier Street, Mount-Royal, Quebec, Canada, H4P 1M2. I am aware of no other persons or bodies authorized to administer the Canadian Proceedings on behalf of the Debtors.

**C. Provisional Relief.**

81. Through the Provisional Relief Motion, provisional relief is sought with respect to each of the Debtors against the following parties: (a) the Lenders; (b) counterparties to certain of the Debtors' executory contracts and unexpired leases; and (c) other creditors, as set forth on the website maintained by the Debtors' noticing agent: <https://cases.omniagentsolutions.com/groupedynamite>.

**D. Parties to Litigation Pending.**

82. In compliance with the requirements of Bankruptcy Rule 1007(a)(4)(B), the Debtors have attached a list of all parties to litigation pending in the United States in which the Debtors are a party at the time of the commencement of the chapter 15 cases as Exhibit C to the Verified Petition.

**X. Statement in Support of Provisional Relief Motion.**

83. I commenced these chapter 15 cases in order to provide the Debtors with the breathing room and stability necessary to implement their restructuring, including by seeking certain provisional relief between the Petition Date and the Bankruptcy Court's entry of the proposed order recognizing the Canadian Proceedings. Such provisional relief includes, among

other things, the Bankruptcy Court's immediate ordering of the application of sections 361, 362, and 365(e) of the Bankruptcy code to these chapter 15 cases. While the Debtors received no-default provision protection pursuant to the Initial Order, the Debtors may be exposed to potentially adverse action in the United States by certain creditors and other parties in interest who may disregard the stay imposed by the Initial Order.

84. Additionally, the Debtors' commencement of the Canadian Proceedings and these chapter 15 cases are, or may be asserted to trigger, events of default and subsequent cross-default under certain of the Debtors' unexpired leases and executory contracts. Further, certain of the Debtors' executory contracts and unexpired leases contain provisions permitting termination upon the Debtors' filing of a case under any section or chapter of the Bankruptcy Code. The relief requested by the Debtors is required to prevent individual creditors acting to frustrate the purpose of the Canadian Proceedings by disregarding the Initial Order, the foremost of which is the fair and efficient administration of the Canadian Proceedings and Restructuring Transactions to maximize the value for all creditors.

85. Accordingly, I believe that the provisional relief requested in the Provisional Relief Motion is necessary and appropriate under the circumstances.

*[Remainder of page intentionally left blank]*

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct to the best of my information and belief.

Executed on this 8th day of September, 2020  
Montreal, Quebec

*/s/ Andrew Lutfy*

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Andrew Lutfy  
Executive Chairman of the Board of Directors  
of Groupe Dynamite Inc.