

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

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

**AND IN THE MATTER OF A PLAN OF**  
**COMPROMISE OR ARRANGEMENT WITH RESPECT TO**  
**JTI-MACDONALD CORP.**

**NINTH REPORT OF THE MONITOR**  
**March 22, 2021**

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**INTRODUCTION**

1. On March 8, 2019, JTI-Macdonald Corp. (“**JTIM**” or the “**Applicant**”) filed for and obtained protection under the *Companies' Creditors Arrangement Act* (the “**CCAA**”). Pursuant to the Order of this Court granted on the same date (the “**Original Initial Order**”), Deloitte Restructuring Inc. was appointed as the Monitor in these proceedings (in such capacity, the “**Monitor**”). The proceedings commenced by the Applicant under the CCAA are referred to herein as the “**CCAA Proceedings**”.
2. The CCAA Proceedings are being conducted in parallel with CCAA proceedings of Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited (collectively, “**ITL**”), and Rothmans, Benson & Hedges Inc. (“**RBH**”, together with JTIM and ITL, the “**CCAA Applicants**”). The stated objective of these parallel, unconsolidated CCAA proceedings is to provide the CCAA Applicants with an opportunity to identify and settle multi-billion dollar claims against each of them through a structured process.

3. In furtherance of the collective goal of resolving numerous, substantial and complicated claims, the Honourable Warren K. Winkler, Q.C. has been appointed as mediator (the **“Court-Appointed Mediator”**), with a mandate to oversee and coordinate a multiparty, comprehensive mediation among the CCAA Applicants and their key stakeholders (the **“Mediation”**).
4. As further set out in this Ninth Report of the Monitor (the **“Ninth Report”**), the Applicant has been working diligently and in good faith and is participating in the Mediation in order to achieve a pan-Canadian resolution of various claims being asserted against it and the other CCAA Applicants. The Mediation and the issues being addressed pursuant thereto are complex. As a result, additional time is required for the Mediation process to unfold beyond March 31, 2021, when the stay of proceedings ordered by the Original Initial Order, as subsequently extended by further orders of the Court (the **“Stay”**), expires.
5. JTIM has accordingly brought a motion seeking an order extending the Stay through to September 30, 2021, which will enable it to continue to advance the Mediation. For the reasons set out in this Ninth Report, the Monitor supports the requested Stay extension. JTIM’s day-to-day business and operations have continued in the ordinary course, against this backdrop of the Court-supervised CCAA Proceedings and are expected to continue in the ordinary course through the period to September 30, 2021.

## **PURPOSE**

6. The purpose of this Ninth Report is to provide the Court with information and updates on the following:

- a) a background summary of these CCAA Proceedings, including the orders and endorsements made to date herein;
- b) the activities of JTIM and the Monitor from September 18, 2020, the date of the Eighth Report of the Monitor filed in connection with the previous motion to extend the Stay (the “**Eighth Report**”), to the date of this Ninth Report;
- c) a comparison of actual cash flow results against forecast, for the first 26-week period of the 30-week cash flow statement (the “**Cash Flow Statement**”) that was included in the Eighth Report. The Cash Flow Statement covered the 30-week period from September 7, 2020 to April 2, 2021, and the comparison is against the first 26 weeks, ending March 5, 2021;
- d) JTIM’s revised cash flow projection (the “**Revised Cash Flow Statement**”) for the 30-week period from March 8, 2021 to October 1, 2021 (the “**Revised Cash Flow Period**”);
- e) the Applicant’s request for an Order to extend the Stay to September 30, 2021;
- f) the Applicant’s motion to lift the Stay to allow the Applicant to execute the Consent Order (defined below), directing JTIM to pay \$10,800 into court in connection with a dispute over life insurance; and
- g) the Monitor’s recommendations.

7. This Ninth Report should be read in conjunction with the Affidavit of William Aziz sworn March 22, 2021 in support of the Applicant's motion for the extension of the Stay (the "**Aziz Affidavit**").

## **TERMS OF REFERENCE AND DISCLAIMER**

8. In preparing this Ninth Report and making the comments herein, the Monitor has been provided with, and has relied upon, unaudited financial information, books and records and financial information prepared by JTIM, and discussions with management and advisors of the Applicant ("**Management**") (collectively, the "**Information**").
9. The Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Generally Accepted Assurance Standards ("**Canadian GAAS**") pursuant to the *Chartered Professional Accountants Canada Handbook* and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under Canadian GAAS in respect of the Information.
10. Due to restrictions imposed as a result of the Coronavirus pandemic ("**Covid-19**"), the Monitor has been unable to perform usual procedures to verify or test provided by Management, including physical attendance at JTIM's premises and meetings with Management.

11. Some of the information referred to in this Ninth Report consists of financial projections. An examination or review of the financial forecasts and projections, as outlined in the *Chartered Professional Accountants Canada Handbook*, has not been performed.
12. Future oriented financial information referred to in this Ninth Report was prepared based on Management's estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.
13. While this Ninth Report does reference some of the known effects of Covid-19 on the Applicant's current and future operations, there may be further effects not yet identified that may affect sales, production, supply chain or any other aspect of the business, which may have an adverse impact on the performance of the Applicant. Readers should consider the increasingly broad effects on the financial condition of the Applicant, as a result of the negative impact on Canada, the global economy and major financial markets from Covid-19.
14. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

## **HISTORY OF THE CCAA PROCEEDINGS**

15. As noted above, the Original Initial Order was granted on March 8, 2019, commencing these CCAA Proceedings and appointing the Monitor. The Original Initial Order provided

for the Stay in respect of, among other parties, the Applicant, until and including April 5, 2019. Pursuant to the terms of the Original Initial Order, the Stay could be lifted with leave of the Court or on the consent of the Applicant and the Monitor.

16. On March 19, 2019, the Court issued an endorsement (the “**March 19 Endorsement**”) suspending, until further order of the Court, the payment of principal and interest, in respect of certain secured indebtedness, and royalties owing by the Applicant to JTI-Macdonald TM Corp. (acting through its privately appointed receiver, PricewaterhouseCoopers Inc. (the “**TM Receiver**”)) in respect of certain licensed trademarks.
17. On April 5, 2019, the Original Initial Order was amended and restated (the “**Amended Initial Order**”) to, among other things, clarify that certain Court-ordered charges do not apply to cash collateral provided by the Applicant to certain third parties and appoint the Court-Appointed Mediator. The Stay was extended to June 28, 2019 by further Order of the Court dated April 5, 2019 (the “**Stay Extension Order**”).
18. On April 17, 2019, the Court issued an endorsement that no proceedings could be commenced, continued or take place, by, against or in respect of, the Applicant without leave of the Court (the “**April 17 Endorsement**”).
19. On April 25, 2019, the Amended Initial Order was further amended (the “**Second Amended Initial Order**”), and the ability of JTIM and the Monitor to consent to a lifting of the Stay was removed, in accordance with the April 17 Endorsement.

20. On April 26, 2019, the Court dismissed the motion of Her Majesty the Queen in right of Ontario (“**Ontario**”) to lift the Stay to allow the Ontario health care cost recovery action to proceed.
21. On April 29, 2019, the Court, on an unopposed basis: (i) granted Ontario leave to amend its Amended Fresh as Amended Statement of Claim in the form of the Second Amended Fresh as Amended Statement of Claim; (ii) lifted the Stay for the narrow purpose of permitting the Ontario Superior Court of Justice to formally effect the amendments to Ontario’s Amended Fresh as Amended Statement of Claim as ordered by Master Short on March 8, 2019; and (iii) lifted the Stay for the narrow purpose of allowing Ontario to serve the Second Amended Fresh as Amended Statement of Claim on all of the defendants to the Ontario health care cost recovery action.
22. On May 14, 2019, the Court granted an unopposed Order (the “**May 14<sup>th</sup> Order**”) lifting the Stay to permit the continuation or commencement of certain proceedings against the Applicant related to personal injury matters involving an employee of the Applicant as co-defendant (the “**Swann Action**”). The plaintiff’s recourse was limited to what was available from the insurance of an event planning company retained by the Applicant. The Court also authorized certain proceedings related to labour and employment matters to be continued or commenced by or against the Applicant with the consent of the Monitor or further order of the Court. On May 14, 2019, the Court further granted an unopposed Order that required the Monitor to provide counsel to the Quebec Class Action Plaintiffs (“**QCAPs**”) and to such other parties on the Service List, on written request, certain details regarding the restructuring fees in these CCAA Proceedings (the “**Fee Disclosure Order**”).



23. On May 24, 2019, the Court issued an endorsement approving a communication and confidentiality protocol between the Court and the Court-Appointed Mediator.
24. On June 26, 2019, the Court granted an Order (the “**Stay Extension and Cash Collateral Order**”) extending the Stay to October 4, 2019 and authorizing the Applicant to deposit additional cash collateral with Citibank, N.A., Canada Branch (“**Citibank**”) in the amount of \$3 million. Also on June 26, 2019, the Court issued an endorsement approving a common service protocol that prescribed how materials could be filed in the CCAA Proceedings and the CCAA proceedings of each of the other CCAA Applicants.
25. On June 26, 2019, the Court issued an endorsement referring to mediation with the Court-Appointed Mediator the matters raised by the QCAPs in their motion seeking to prohibit the set-off by the TM Receiver of outstanding royalties against a deposit held by the TM Receiver.
26. Pursuant to paragraph 41(b) in the Second Amended Initial Order, the Court-Appointed Mediator may retain advisors as he considers necessary to assist him in carrying out his mandate. On June 27, 2019, the Court granted an Order appointing Alvarez & Marsal Canada Inc. as the financial advisor to the Court-Appointed Mediator.
27. On July 9, 2019, the Court granted an Order to provide for court-to-court communications between the Court, other courts in any province or territory in Canada and the United States Bankruptcy Court for the Southern District of New York.
28. On October 2, 2019, the Court granted an Order extending the Stay until March 12, 2020.

29. On October 3, 2019, the Court issued an endorsement that permitted the Canadian Cancer Society to participate in the CCAA Proceedings subject to certain conditions but did not permit their participation in the Mediation at this time.
30. On December 9, 2019, the Court granted an Order (the “**Representative Counsel Appointment Order**”) appointing The Law Practice of Wagner & Associates, Inc. (the “**Representative Counsel**”) to represent individuals that may be able to assert claims against the CCAA Applicants (and parties related to them) arising from alleged “Tobacco Related Wrongs” (as defined in the Representative Counsel Appointment Order), to the extent these individuals are not otherwise members of a certified class action.
31. On February 20, 2020, the Court granted an Order extending the Stay until September 30, 2020.
32. As noted above, pursuant to paragraph 41(b) of the Second Amended Initial Order, the Court-Appointed Mediator may retain advisors as he considers necessary to assist him in carrying out his mandate. On September 15, 2020, the Court granted an Order appointing Daniel Shapiro Legal Professional Corporation (“**Shapiro**”) as consultant to the Court-Appointed Mediator to provide general advice and consulting services to support the Court-Appointed Mediator in connection with the fulfilment of his duties, as such services may be requested from time to time by the Court-Appointed Mediator and agreed to by Shapiro.
33. On September 29, 2020, the Court granted an Order extending the Stay until March 31, 2021.

34. On February 2, 2021, the Court amended the May 14<sup>th</sup> Order to limit any recovery in respect of the Swann Action as against the Applicant to the proceeds from available and collectible insurance (i.e. not just limited to the insurance of the event planner), but not as against the Applicant itself. The Court also lifted the Stay permitting one of the Applicant's insurance providers, which previously paid out an insurance claim of the Applicant, to pursue a subrogated claim against a third party, in the name of the Applicant (the "**Allianz Action**").
35. Copies of all orders and endorsements granted in the CCAA Proceedings are located on the Monitor's website, accessible at: <https://www.insolvencies.deloitte.ca/en-ca/pages/JTIMacdonaldCorp.aspx>.

#### **ACTIVITIES OF JTIM AND THE MONITOR SINCE THE EIGHTH REPORT**

36. The activities of JTIM since the Eighth Report are set out in the Aziz Affidavit at paragraph 13.
37. The Monitor has undertaken the following activities since the Eighth Report:
- a) assisted JTIM in preparing revised cash flow projections and cash flow variance reporting;
  - b) attended calls and meetings with Management regarding business operations, interim financial results, employee compensation arrangements, compilation of financial and other information for the inclusion in a dataroom created by the Monitor containing comprehensive information about the Applicant's business,

operations and finances, for the sole purpose of providing information to specified participants in the Mediation (the “**Dataroom**”), and the conduct of the CCAA Proceedings;

- c) continued to populate the Dataroom with commercially sensitive and confidential information compiled by the Applicant;
- d) responded to the information requests from the financial advisors to the Provinces of Ontario, British Columbia, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island and Saskatchewan in their capacities as plaintiffs in the health care cost recovery legislation claims;
- e) coordinated with the ITL and RBH Monitors and their respective counsel on the Mediation, population of financial and other information in the Dataroom and similar datarooms for ITL and RBH and procedural aspects of the three CCAA proceedings;
- f) attended the Mediation and various confidential meetings in relation thereto;
- g) reviewed motion materials and discussed with the Applicant’s legal counsel and the Monitor’s independent legal counsel JTIM’s request for the relief sought in connection with the Swann Action and Allianz Action. The Monitor consented to the relief on the basis that the Lift Stay Order would have no economic impact on the Applicant or its stakeholders;

- h) reviewed and discussed with the Applicant's legal counsel and the Monitor's independent legal counsel JTIM's request for a lift of the Stay to permit it to execute the Consent Order (defined below). Litigation was commenced in respect of the entitlement to payment under a life insurance policy in respect of a now deceased former employee of JTIM. While JTIM is not a party to the litigation, the terms of the life insurance policy which is subject to the litigation require the Applicant to pay the first \$10,000 (plus \$800 in interest) of the life insurance benefits to the appropriate beneficiary ("JTIM's Payment"), with the balance payable by the insurance company providing coverage. Parties to the litigation have requested that the Applicant execute a consent order requiring the Applicant to pay JTIM's Payment into court pending a determination of the litigation (the "Consent Order"). A copy of the current draft of the Consent Order can be found as Exhibit B to the Aziz Affidavit;
- i) communicated with the Court with respect to certain procedural matters;
- j) monitored receipts from, and payments to, related parties, in respect of goods and services provided. The Monitor confirms that it is not aware of any deviation from standard payment terms in connection with the various related party contracts, other than as required by the March 19 Endorsement;
- k) reviewed the intercompany agreement between JTIM and a related party (the "**SAP Crosscharges Agreement**"). The purpose of the SAP Crosscharges Agreement is to reimburse a related party for charges incurred in the development of the new SAP

platform for Japan Tobacco's international operations network (referred to as SAP S/4HANA, a substantive change being undertaken by all SAP customers globally). The previous SAP platform was scheduled for service discontinuance by SAP beginning in 2025. The Applicant relies on SAP for certain critical services, including financial reporting and human resources, and the upgrade allowed JTIM to remain integrated with Japan Tobacco's international operations network. Pursuant to Paragraph 9 of the Second Amended Initial Order<sup>1</sup>, the Monitor did not object to the execution of the SAP Crosscharges Agreement on the basis that it was satisfied that such upgrades to SAP S/4HANA were in the normal course of business and consistent with existing and past practices. The total amount reimbursed to the related party was US \$740,000;

- 1) discussed with Management forward financial guidance disclosed by Japan Tobacco Inc. ("**Japan Tobacco**"), the Applicant's ultimate parent. On February 9, 2021, Japan Tobacco announced that it planned to reduce the workforce in Japan by around 1,000 employees and 1,600 field partners and that it expected 2021 reported adjusted operating profit to decrease in 2021. Management advised the Monitor that the Applicant will not be affected by the proposed reorganization;

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<sup>1</sup> This Court orders that the Applicant is authorized to complete outstanding transactions and engage in new transactions with the members of the JTI Group... All Intercompany Transactions in the ordinary course of business between the Applicant and any member of the JTI Group, including the provision of goods and services from any member of the JTI Group to the Applicant, shall continue on terms consistent with existing arrangements or past practice or as otherwise approved by the Monitor.

- m) provided fee disclosure, in accordance with and subject to, the terms of the Fee Disclosure Order, to those parties that have requested same; and
- n) maintained the Monitor's JTIM website.

#### **CASH FLOW STATEMENT AND RESULTS RELATIVE TO FORECAST**

38. Summarized in the following table are JTIM's actual cash receipts and disbursements for the 26-week period ended March 5, 2021 (the "**Reporting Period**") as compared to the corresponding weeks in the Cash Flow Statement included in the Eighth Report.

<b>JTI-Macdonald Corp.</b>				
<b>Summary of Actual versus Forecast Cash Flows</b>				
<b>For the 26-week period ended March 5, 2021</b>				
<b>\$CAD '000, unaudited</b>	<b>Notes</b>	<b>Actual</b>	<b>Forecast</b>	<b>Variance</b>
<b>Receipts</b>				
Sales	<i>a</i>	634,018	582,463	51,556
Intercompany Receipts	<i>a</i>	163,647	123,479	40,167
Tax Refunds		15,788	13,776	2,012
Other Receipts		2,390	1,140	1,250
<b>Total Receipts</b>		<b>815,844</b>	<b>720,858</b>	<b>94,986</b>
<b>Disbursements</b>				
General Expenses	<i>b</i>	49,678	43,812	(5,866)
Payroll and Benefits		42,744	41,020	(1,724)
Pension		8,218	6,079	(2,139)
Promotions and Marketing		73,160	74,834	1,674
Leaf		3,148	1,239	(1,909)
Capital Expenditures and Leases		6,664	5,911	(753)
Professional Fees		654	702	48
Restructuring Costs	<i>c</i>	3,610	7,042	3,433
Domestic and Import Duty	<i>d</i>	289,606	234,779	(54,826)
GST and HST	<i>d</i>	41,055	34,425	(6,629)
Intercompany Disbursements	<i>e</i>	201,744	151,867	(49,877)
Intercompany Royalties		-	-	-
Intercompany Interest		-	-	-
Intercompany Principal		-	-	-
Income Tax Instalments and PTT	<i>f</i>	51,291	44,120	(7,171)
<b>Total Disbursements</b>		<b>771,571</b>	<b>645,830</b>	<b>(125,740)</b>
<b>Cashflow Surplus/Deficit (-)</b>		<b>44,273</b>	<b>75,028</b>	<b>(30,755)</b>
<b>Opening Cash Balance</b>		<b>536,129</b>	<b>536,129</b>	<b>-</b>
<b>FX Adjustment</b>		<b>1,460</b>	<b>-</b>	<b>1,460</b>
<b>Closing Cash Balance</b>		<b>581,861</b>	<b>611,157</b>	<b>(29,295)</b>
<b>Cash Collateral pledged to Citibank</b>				
Opening Balance		11,900	11,900	-
Cash Collateral Deposit / (Withdrawal)		-	-	-
<b>Closing Balance</b>		<b>11,900</b>	<b>11,900</b>	<b>-</b>
<b>Closing Cash net of Cash Collateral</b>		<b>569,961</b>	<b>599,257</b>	<b>(29,295)</b>



39. JTIM's actual net cash flow for the Reporting Period was \$44.3 million, compared to forecast net cash flow of \$75.0 million resulting in an unfavourable variance of \$30.7 million. A summary of the major variances are as follows:

- a) Favourable variances of \$51.6 million in third-party sales receipts and \$40.2 million in intercompany receipts due to higher than expected volume during the Reporting Period including an increase in customer demand in the weeks prior to a price increase in January;
- b) An unfavourable variance of \$5.9 million in general expenses due in part to a permanent difference arising from higher than forecast logistics and non-tobacco material expenditures from increased production and sales volume, and in part to a timing difference which is expected to reverse in future periods;
- c) A favourable variance of \$3.4 million in restructuring costs is a timing difference that is expected to reverse in future periods;
- d) Unfavourable variances of \$54.8 million in domestic and import duty and \$6.6 million in GST and HST is a permanent difference arising from, among other things:
  - i. increased production and sales volume as mentioned above;
  - ii. replenishment of inventory levels at the beginning of this period resulting from higher than forecast sales during the 31-week period ended September 4, 2020 and following factory pauses for annual equipment maintenance;
  - iii. the commencement of inventory stockpiling due to the upcoming decommissioning of bevel edge machinery that will be followed by

the installation of slide and shell machinery as a result of the plain packaging regulations;

The build-up of inventory will be a benefit observed in the Revised Cash Flow Period.

- e) An unfavourable variance of \$49.9 million in intercompany disbursements is a permanent difference mainly comprised of i) \$3.1 million unfavorable variance in intercompany leaf purchases and ii) \$44.6 million unfavorable variance in intercompany finished goods purchases due to the reasons noted in 39 d) above. The build-up of inventory will be a benefit observed in the Revised Cash Flow Period; and
- f) An unfavourable variance of \$7.2 million in income tax instalments and PTT is a permanent difference mainly comprised of i) \$4.4 million unfavourable variance in income tax payments due to increased profits in 2020 and ii) \$2.5 million unfavourable variance in PTT payments due to higher than forecast sales to retail partners.
- g) In summary, the net negative variance in the current period is largely a result of:
  - i) the replenishment of inventories sold during the previous forecast period ended September 4, 2020 whereby JTIM had a large positive cash variance of \$80 million, and
  - ii) the commencement of inventory stockpiling due to the upcoming decommissioning of bevel edge machinery that will be followed by the installation of slide and shell machinery as a result of the plain packaging regulations.

## **APPLICANT'S REVISED CASH FLOW STATEMENT**

40. The Applicant, with the assistance of the Monitor, has prepared the Revised Cash Flow Statement for the purposes of projecting the estimated results of the Applicant's planned operations and other activities during the Revised Cash Flow Period. A copy of the Revised Cash Flow Statement is attached as **Appendix "A"**, and is summarized below for the 30-week period ending October 1, 2021:

<b>JTI-Macdonald Corp.</b>	
<b>30-week Revised Cash Flow Statement</b>	
<b>\$CAD '000, unaudited</b>	
	<b>30-week Total to October 1, 2021</b>
<b>Receipts</b>	
Sales	808,557
Intercompany Receipts	163,009
Tax Refunds	16,928
Other Receipts	1,211
<b>Total Receipts</b>	<b>989,705</b>
<b>Disbursement</b>	
General Expenses	52,232
Payroll and Benefits	40,341
Pension	7,662
Promotions and Marketing	77,985
Leaf	1,086
Capital Expenditures	20,574
Professional Fees	833
Restructuring Costs	8,348
Domestic and Import Duty	276,962
GST and HST	50,234
Intercompany Disbursements	227,672
Intercompany Royalties	-
Intercompany Interest	-
Intercompany Principal	-
Income Tax Instalments and PTT	66,100
<b>Total Disbursements</b>	<b>830,027</b>
<b>Cashflow Surplus/Deficit (-)</b>	<b>159,678</b>
<b>Opening Cash Balance</b>	581,861
<b>Closing Cash Balance</b>	<b>741,539</b>
<b>Cash Collateral pledged to Citibank</b>	
Opening Balance	11,900
Cash Collateral Deposit / (Withdrawal)	-
<b>Closing Balance</b>	<b>11,900</b>
<b>Closing Cash net of Cash Collateral</b>	<b>729,639</b>

41. The Revised Cash Flow Statement is presented on a weekly basis during the Revised Cash Flow Period and represents Management's best estimate of the projected cash flows during the Revised Cash Flow Period. The Revised Cash Flow Statement has been prepared by Management using the assumptions set out in the notes to the Revised Cash Flow Statement (the "**Revised Assumptions**").
42. JTIM's opening cash balance on March 8, 2021 was \$581.9 million. The forecast cash flow surplus for the Revised Cash Flow Period is estimated to be \$159.7 million. This includes \$20.6 million in capital expenditures mainly related to the purchase of slide and shell packaging equipment required under the new plain and standardized packaging measures. Accordingly, the Applicant has sufficient liquidity during the proposed period of extension of the Stay.
43. The Monitor has reviewed the Revised Cash Flow Statement to the standard required of a Court-appointed monitor by Section 23(1)(b) of the CCAA. Section 23(1)(b) requires a monitor to review the debtor's cash flow statement as to its reasonableness and to file a report with the Court on the monitor's findings. The Canadian Association of Insolvency and Restructuring Professionals' ("**CAIRP**") Standards of Professional Practice include a standard for a monitor fulfilling its statutory responsibilities under the CCAA in respect of its report on the cash flow statement.
44. In accordance with the CCAA and CAIRP standards, the Monitor's review of the Revised Cash Flow Statement consisted of inquiries, analytical procedures and discussions related to the Revised Cash Flow Statement and Revised Assumptions. Since the Revised

Assumptions need not be supported, the Monitor's procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Revised Cash Flow Statement. The Monitor also reviewed the support provided by Management for the Revised Assumptions and the preparation and presentation of the Revised Cash Flow Statement.

45. Based on the Monitor's review, nothing has come to its attention that causes it to believe, in all material aspects, that:
- a) the Revised Assumptions are not consistent with the purpose of the Revised Cash Flow Statement;
  - b) as at the date of this Ninth Report, the Revised Assumptions are not suitably supported and consistent with the plans of the Applicant or do not provide a reasonable basis for the Revised Cash Flow Statement, given the Revised Assumptions; or
  - c) the Revised Cash Flow Statement does not reflect the Revised Assumptions.
46. Since the Revised Cash Flow Statement is based on Revised Assumptions regarding future events, actual results will vary from the information presented even if the Revised Assumptions occur, and the variations could be material. Accordingly, the Monitor expresses no assurance as to whether the Revised Cash Flow Statement will be achieved. In addition, the Monitor expresses no opinion or other form of assurance with respect to

the accuracy of the financial information presented in the Revised Cash Flow Statement, or relied upon by the Monitor in preparing this Ninth Report.

47. The Revised Cash Flow Statement has been prepared solely for the purposes described above, and readers of this Ninth Report are cautioned that it may not be appropriate for other purposes.

#### **STAY EXTENSION**

48. The current Stay expires on March 31, 2021. The Applicant is seeking the extension of the Stay up to and including September 30, 2021 in order for the Applicant, with the assistance of the Monitor, to:

- a) preserve the *status quo* and continue to maintain the stability of operations;
- b) seek a collective solution for the benefit of all stakeholders in respect of multi-billion dollar claims asserted against the Applicant and the other CCAA Applicants, including through advancing the Mediation led by the Court-Appointed Mediator; and
- c) determine next steps in respect of the CCAA Proceedings.

49. In the Monitor's view, progress has been made in the Mediation since the last Stay extension hearing on September 29, 2020. The CCAA Applicants have continued to populate separate datarooms with financial information to advance discussions with key stakeholders in the Mediation. The Applicant has responded to stakeholder questions and

requests for additional information. The Monitor continues to work with the Applicant to populate the Dataroom with financial and other information, as requested in the Mediation.

50. Since the Eighth Report, the Court-Appointed Mediator, with the assistance of the JTIM, ITL, and RBH monitors, continues to conduct meetings in the Mediation and engage in discussions with the CCAA Applicants and the key stakeholders. The Mediation is confidential; however, the Monitor confirms that the parties continue to advance the Mediation to facilitate a global settlement of the various claims asserted against the CCAA Applicants.
51. Extending the Stay for the requested time will allow the Applicant to continue operating in the normal course while participating in the Mediation and pursuing a global settlement. In the Monitor's view, the Applicant's request for an extension of the Stay until September 30, 2021, is reasonable and appropriate in the circumstances.
52. As described above, the Revised Cash Flow Statement indicates that the Applicant will have sufficient liquidity during the Revised Cash Flow Period.
53. In the Monitor's view, the Applicant has acted and continues to act in good faith and with due diligence in the CCAA Proceedings.



## RECOMMENDATIONS

54. The Monitor supports the relief sought by the Applicant in its motions
- a) in connection with the extension of the Stay to September 30, 2021; and
  - b) in connection with the Consent Order,
- and respectfully recommends that the Court grant the requested relief.

All of which is respectfully submitted this 22<sup>nd</sup> day of March, 2021.

**Deloitte Restructuring Inc.,  
Solely in its capacity as Court-appointed Monitor  
of JTIM and not in its personal capacity**



Per:  
Paul M. Casey, CPA, CA, FCIRP, LIT  
Senior Vice-President

## Appendix “A”

### Revised Cash Flow Statement

JTI-Macdonald Corp.  
30-week Revised Cash Flow Statement  
\$CAD '000, unaudited

For the week beginning	Notes	8-Mar-21	15-Mar-21	22-Mar-21	29-Mar-21	5-Apr-21	12-Apr-21	19-Apr-21	26-Apr-21	3-May-21	10-May-21	17-May-21	24-May-21	31-May-21	7-Jun-21	14-Jun-21
Receipts																
Sales	2	21,123	21,605	25,595	23,101	21,945	26,136	26,639	27,123	26,025	29,242	26,805	23,070	27,663	28,015	32,353
Intercompany Receipts	3	5,088	5,340	5,071	4,725	8,410	7,892	6,598	6,655	5,936	6,001	6,766	4,805	5,504	5,396	6,994
Tax Refunds	4	-	1,461	-	3,428	3,272	1,200	261	-	-	1,200	261	-	-	-	1,200
Other Receipts	5	69	13	28	63	69	13	-	28	63	69	13	28	63	69	13
Total Receipts		26,280	28,420	30,695	31,317	33,697	35,241	33,498	33,806	32,023	36,512	33,844	27,903	33,230	33,481	40,561
Disbursements																
General Expenses	6	2,043	2,043	2,043	1,583	1,786	1,786	1,786	1,786	1,700	1,700	1,700	1,360	1,795	1,818	1,818
Payroll and Benefits	7	2,025	455	2,355	625	2,466	455	2,355	625	1,855	455	2,355	455	2,025	455	1,855
Pension	8	160	752	160	-	160	752	160	-	160	-	912	-	160	-	912
Promotions and Marketing	9	1,780	1,780	1,780	1,591	2,616	2,616	2,616	2,616	3,159	3,159	3,159	2,527	2,694	2,578	2,578
Leaf	10	-	278	-	-	-	21	-	-	-	-	53	-	-	-	63
Capital Expenditures	11	226	226	226	226	-	-	-	-	-	-	-	-	2,720	2,720	2,720
Professional Fees	12	24	24	24	24	31	31	31	31	31	31	31	31	24	24	24
Restructuring Costs	13	225	225	225	225	322	322	322	322	347	347	347	347	269	269	269
Domestic and Import Duty	14	-	-	-	40,572	-	-	-	48,315	-	-	-	200	41,439	-	-
GST and HST	15	-	-	-	6,492	-	-	-	6,973	-	-	-	-	7,838	-	-
Intercompany Disbursements	16	6,841	8,800	7,086	5,581	7,455	9,147	7,593	7,419	9,446	9,376	10,838	7,754	7,788	7,292	8,736
Intercompany Royalties	17	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Intercompany Interest	18	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Intercompany Principal	18	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Income Tax Instalments and PTT	19	2,100	-	-	7,600	1,500	-	-	7,600	-	3,100	-	-	7,600	4,200	-
Total Disbursements		15,425	14,583	13,899	64,520	16,335	15,129	14,862	75,687	16,697	18,167	19,394	12,673	74,353	19,357	18,975
Cashflow Surplus/Deficit (-)		10,855	13,836	16,796	(33,203)	17,362	20,112	18,637	(41,881)	15,327	18,345	14,450	15,229	(41,123)	14,124	21,585
Opening Cash Balance	1	581,861	592,716	606,553	623,348	590,145	607,507	627,620	646,256	604,376	619,702	638,047	652,497	667,726	626,603	640,727
Closing Cash Balance		592,716	606,553	623,348	590,145	607,507	627,620	646,256	604,376	619,702	638,047	652,497	667,726	626,603	640,727	662,312
Cash Collateral pledged to Citibank	20															
Opening Balance		11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900
Cash Collateral Deposit / (Withdrawal)		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Closing Balance		11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900
Closing Cash net of Cash Collateral		580,816	594,653	611,448	578,245	595,607	615,720	634,356	592,476	607,802	626,147	640,597	655,826	614,703	628,827	650,412

JTI-Macdonald Corp.  
30-week Revised Cash Flow Statement  
\$CAD '000, unaudited

For the week beginning	Notes	21-Jun-21	28-Jun-21	5-Jul-21	12-Jul-21	19-Jul-21	26-Jul-21	2-Aug-21	9-Aug-21	16-Aug-21	23-Aug-21	30-Aug-21	6-Sep-21	13-Sep-21	20-Sep-21	27-Sep-21	30-week Total to October 1, 2021
Receipts																	
Sales	2	28,606	24,433	30,040	30,074	30,056	29,989	27,147	27,151	26,963	28,552	30,182	22,877	28,150	27,779	30,115	808,557
Intercompany Receipts	3	5,453	4,439	6,006	7,321	6,006	6,063	3,108	3,885	4,775	3,942	4,097	3,390	4,397	4,238	4,708	163,009
Tax Refunds	4	261	-	-	1,200	261	-	-	1,200	261	-	-	-	1,200	261	-	16,928
Other Receipts	5	-	91	69	13	-	28	63	69	13	28	63	69	13	-	91	1,211
Total Receipts		34,319	28,963	36,116	38,607	36,323	36,080	30,318	32,306	32,012	32,522	34,342	26,337	33,760	32,278	34,915	989,705
Disbursements																	
General Expenses	6	1,818	1,467	1,881	1,881	1,881	1,881	1,505	1,881	1,881	1,881	1,667	1,219	1,524	1,524	1,594	52,232
Payroll and Benefits	7	955	2,245	455	1,855	955	2,025	455	1,855	955	1,855	625	1,855	455	2,355	625	40,341
Pension	8	-	160	-	912	-	160	-	160	752	160	-	160	752	160	-	7,662
Promotions and Marketing	9	2,578	2,274	3,635	3,635	3,635	3,635	1,245	1,556	1,556	1,556	2,635	2,684	3,355	3,355	3,402	77,985
Leaf	10	-	-	-	87	-	-	-	-	251	-	-	-	334	-	-	1,086
Capital Expenditures	11	2,720	2,720	448	448	448	448	274	274	274	274	637	637	637	637	637	20,574
Professional Fees	12	24	24	31	31	31	31	31	31	31	31	24	24	24	24	24	833
Restructuring Costs	13	269	269	284	284	284	284	296	296	296	296	222	222	222	222	222	8,348
Domestic and Import Duty	14	-	41,035	-	-	-	43,734	-	-	-	200	29,767	-	-	-	31,699	276,962
GST and HST	15	-	7,498	-	-	-	7,973	-	-	-	-	7,116	-	-	-	6,344	50,234
Intercompany Disbursements	16	7,542	5,890	7,647	9,282	7,783	7,573	6,568	8,126	9,718	8,335	6,373	4,236	6,672	5,414	5,362	227,672
Intercompany Royalties	17	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Intercompany Interest	18	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Intercompany Principal	18	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Income Tax Instalments and PTT	19	-	7,600	2,900	-	-	7,600	-	3,500	-	-	7,600	3,200	-	-	-	66,100
Total Disbursements		15,907	71,182	17,279	18,413	15,015	75,343	10,373	17,678	15,713	14,588	56,666	14,237	13,974	13,690	49,909	830,027
Cashflow Surplus/Deficit (-)		18,412	(42,219)	18,836	20,194	21,308	(39,264)	19,945	14,627	16,298	17,934	(22,324)	12,100	19,786	18,588	(14,995)	159,678
Opening Cash Balance	1	662,312	680,724	638,505	657,341	677,535	698,843	659,579	679,525	694,152	710,450	728,384	706,060	718,160	737,946	756,534	581,861
Closing Cash Balance		680,724	638,505	657,341	677,535	698,843	659,579	679,525	694,152	710,450	728,384	706,060	718,160	737,946	756,534	741,539	741,539
Cash Collateral pledged to Citibank	20																
Opening Balance		11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900
Cash Collateral Deposit / (Withdrawal)		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Closing Balance		11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900	11,900
Closing Cash net of Cash Collateral		668,824	626,605	645,441	665,635	686,943	647,679	667,625	682,252	698,550	716,484	694,160	706,260	726,046	744,634	729,639	729,639

**In the Matter of the *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.  
1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF JTI-MACDONALD CORP.**

**("JTIM" or the "Applicant")**

**Notes to the Applicant's Unaudited Revised Cash Flow Statement**

**Disclaimer**

In preparing this cash flow projection (the "**Revised Cash Flow Statement**"), the Applicant has relied upon unaudited interim financial information and the major assumptions listed below. The Revised Cash Flow Statement includes estimates concerning the operations of the Applicant with consideration to the impact of a filing under the *Companies' Creditors Arrangement Act*, as amended (the "**CCAA**"). The Revised Cash Flow Statement is based on assumptions about future events and the actual results achieved during the forecast period will vary from the Cash Flow Statement, even if the assumptions materialize, and such variations may be material. There is no representation, warranty or other assurance that any of the estimates, forecasts or projections will be realized. Parties using the Revised Cash Flow Statement for reasons other than to assess the cash flows of the Applicant during the forecast period are cautioned that it may not be appropriate for their purposes.

The Revised Cash Flow Statement does not include any consideration of the likely impact of Coronavirus ("**Covid-19**") on sales, production, supply chain or any other aspect of the business of JTIM as the situation continues to evolve, and many uncertainties remain as to the effect the Covid-19 crisis will have on the Applicant and the broader domestic and global economies. Changes to market conditions could substantively affect JTIM and the Revised Cash Flow Statement.

**Overview**

The Revised Cash Flow Statement reflects cash flows from JTIM. The Applicant, with the assistance of the Monitor, has prepared the Revised Cash Flow Statement based primarily on historical results and JTIM's current expectations derived from their annual budgeting process. Consistent with the Applicant's budgeting process, the Revised Cash Flow Statement is presented in thousands of Canadian Dollars. Receipts and disbursements denominated in U.S. Dollars have been converted into Canadian Dollars using an exchange rate of **CDN\$1.36 = USD\$1.00**.

## **Major Assumptions**

### **RECEIPTS**

#### **1. Opening cash balance**

This is the opening cash balance at the start of the cash flow projection.

#### **2. Sales**

Receipts from JTIM's trade sales are estimated based on a weekly forecast of collections from existing accounts. The projected sales are derived from JTIM's annual budget, which includes assumptions surrounding industry wide price fluctuations. JTIM collects payment from its customers via direct debit once product is shipped. The vast majority of JTIM's customers are tobacco wholesalers. In limited circumstances, JTIM sells directly to retail accounts.

#### **3. Intercompany Receipts**

JTIM is owned indirectly by Japan Tobacco Inc. ("**Japan Tobacco**"), a publicly listed company in Japan. Certain employees of JTIM, located at either the Mississauga head office or Montreal factory locations, perform services for non-Canadian entities. A charge for time spent is applied to the related party corporation benefiting from the services. The charge is based on time spent by the employees based on an annual submission that the employee provides. The fee rate is based on the cost of each employee to JTIM, plus a 5% mark-up.

JTIM provides other related-party international tobacco companies outside of Japan ("**JT International**") with skilled personnel (i.e. expatriates working abroad), and is reimbursed the costs of such employees.

JTIM performs contract manufacturing for non-Canadian branded cigarettes at the Montreal manufacturing facility for JT International S.A. ("**JTI-SA**").

JTIM also provides services to JTI Canada Tech Inc. with respect to the distribution of potentially reduced risk products in Canada.

JTIM exports Canadian brand cigarettes to other JT International entities for sale.

#### **4. Tax Refunds**

The projected tax refunds relate to the collection of QST refunds in Quebec, excise tax refunds for product that require rework or destruction and customs duty refunds for imported product that require destruction.

## **5. Other Receipts**

Other receipts relate to interest income earned from short-term investments and high interest savings accounts.

## **DISBURSEMENTS**

## **6. General Expenses**

These projected disbursements include payments related to non-tobacco materials, travel, service related activities, utilities and rent. Additional expenditures are forecast for regional sales office leases, vehicles used by marketing representatives and miscellaneous information technology requirements.

## **7. Payroll and Benefits**

These projected disbursements include payroll and benefit costs for all salaried and hourly plant employees. The forecast amounts are based on historic run rates. Hourly plant employees are paid weekly and salaried employees are paid bi-weekly. Payroll disbursements include all employee source deductions, employee and employer portions of CPP/QPP and EI, and other payroll-related taxes. Payroll and benefit costs also include retention bonuses and severance costs related to the global transformation project.

## **8. Pension**

These projected disbursements represent payments to JTIM's registered employees plan, registered executive employees plan and the executive supplemental benefit plan. The pension amounts forecast in the cash flow include all current and special obligation amounts.

## **9. Promotions and Marketing**

These projected disbursements relate to the various marketing and promotional initiatives, such as inventory support programs and brand support programs. Initiatives are generally paid 30 days in arrears or via quarterly installments.

#### **10. Leaf**

These projected disbursements represent payments to third party suppliers of tobacco leaf. Third party purchases are used in circumstances where JTI-SA does not have a specific grade of tobacco available at the time required to meet the plant's tobacco blend requirements to reduce disruptions in the production process.

#### **11. Capital Expenditures**

These projected disbursements relate to capital expenditures for plant and equipment purchases at the Montreal production facility. These capital expenditures include investments in new plain packaging machinery for statutory compliance, machine upgrades, new product flow control systems and environmental health and safety.

#### **12. Professional Fees**

These projected disbursements include payments to JTIM's legal advisors for corporate matters.



### **13. Restructuring Costs**

These projected disbursements include payments to JTIM's legal advisors for specialist restructuring advice, the fees and costs of the Monitor and its counsel, the fees and costs of the Chief Restructuring Officer, the fees and costs of the Court-Appointed Mediator and his advisors, and the fees and costs of the Representative Counsel and its advisors.

### **14. Domestic and Import Duty**

These projected disbursements relate to payments to the Canada Revenue Agency ("CRA") with respect to tobacco products produced under the *Excise Act*, 2001 and customs duty and GST on imported leaf and other raw materials, spare parts or machinery. Excise duty returns and payments are due on the last day of the month following the reporting period (e.g. a return for a period ending February 28 is due by March 31). Import duty payments are paid once a month on a rolling basis with the 21st being the end of the month.

### **15. GST and HST**

These projected disbursements represent payments to the CRA with respect to GST and HST. Historically, JTIM has always been in a monthly net payable position.

### **16. Intercompany Disbursements**

These projected disbursements represent: (i) payments for goods and services provided by JT International entities such as tobacco products from JTI-SA, LLC Cres Neva, LLC Petro, JTI (US) Holding Inc., JT International Canarias S.A.U., and Japan Tobacco International USA Inc., (ii) IT services provided by JTI-SA, (iii) global administrative services provided by JTI GBS Philippines Inc., (iv) employee arrangements provided by JTI Services Switzerland SA, and (v) global headquarter services provided by JT International Holding B.V.

### **17. Intercompany Royalties**

JTI-Macdonald TM Corp. ("TM") provides licenses to JTIM to use the trademarks to manufacture and sell goods bearing the trademarks in exchange for a monthly royalty payment. The intercompany royalty payments have been suspended pursuant to the Endorsement of Justice

McEwen dated March 19, 2019. The amount of approximately \$900,000 continues to be accrued monthly. Additionally, default interest is accruing on royalty payments due and unpaid.

#### **18. Intercompany Interest and Principal**

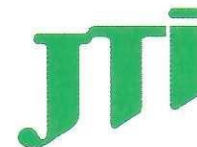
This disbursement represents monthly interest payments on the \$1.2 billion secured convertible debentures by JTIM to TM. The intercompany interest and principal payments have been suspended pursuant to the Endorsement of Justice McEwen dated March 19, 2019. The interest amount of approximately \$7.7 million continues to be accrued monthly. Additionally, default interest is accruing on interest and principal payments due and unpaid.

#### **19. Income Tax Instalments and Provincial Tobacco Taxes**

These projected disbursements represent corporate income tax instalments and payments of Provincial Tobacco Taxes (“PTT”) on direct retail sales.

#### **20. Cash Collateral**

Cash collateral of \$11.9 million was pledged to Citibank pursuant to agreements dated in 2016, 2017, and 2019 to allow for continued central travel account card services and cash management services provided by Citibank.



March 17, 2021

Deloitte Restructuring Inc.  
Bay Adelaide East  
8 Adelaide Street West  
Suite 200  
Toronto, Ontario M5H 0A9  
Canada

Attention: Paul M. Casey

Dear Sirs:

**Re: Proceedings under the *Companies' Creditors Arrangement Act* ("CCAA")  
Responsibilities/Obligations and Disclosure with Respect to Cash Flow  
Projections**

In connection with the CCAA proceedings in respect of JTI-Macdonald Corp. ("**JTIM**"), the management of JTIM ("**Management**") has prepared the attached Revised Cash Flow Statement and the assumptions on which the Revised Cash Flow Statement is based.

JTIM confirms that:

1. The Revised Cash Flow Statement and the underlying assumptions are the responsibility of JTIM;
2. All material information relevant to the Revised Cash Flow Statement and to the underlying assumptions has been made available to Deloitte Restructuring Inc., in its capacity as Monitor of JTIM;
3. Management has taken all actions that it considers necessary to ensure:
  - a. That the individual assumptions underlying the Revised Cash Flow Statement are appropriate in the circumstances;
  - b. That the individual assumptions underlying the Revised Cash Flow Statement, taken as a whole, are appropriate in the circumstances; and
  - c. That all relevant assumptions have been properly presented in the Revised Cash Flow Statement or in the notes accompanying the Revised Cash Flow Statement.

4. Management understands and agrees that the determination of what constitutes a material adverse change in the projected cash flow or financial circumstances, for the purposes of our monitoring the on-going activities of JTIM, is ultimately at your sole discretion, notwithstanding that Management may disagree with such determination;
5. Management understands its duties and obligations under the CCAA and that a breach of these duties and obligations could make the JTIM's Management liable to fines and imprisonment in certain circumstances; and
6. The Revised Cash Flow Statement and assumptions have been reviewed and approved by the JTIM's board of directors or Management has been duly authorized by JTIM's board of directors to prepare and approve the cash flow assumptions.

Yours truly,

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

Name: Robert McMaster

Title: Treasurer

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO **JTI-MACDONALD CORP.**

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

Proceeding commenced at Toronto

**NINTH REPORT OF THE MONITOR  
Dated March 22, 2021**

**BLAKE, CASSELS & GRAYDON LLP**  
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