

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N :

CWB MAXIUM FINANCIAL INC.

Plaintiff

- and -

1970636 ONTARIO LTD. o/a MT. CROSS PHARMACY,  
UMAIR N. NASIM, SHRIKANT MALHOTRA, 1975193 ONTARIO LTD. dba MTN RX &  
HEALTH AND ANGELO KIRKOPOULOS

Defendants

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**MOTION RECORD  
(RETURNABLE MAY 16, 2018)**

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Lawyers for the Plaintiff.

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(As at May 16, 2018)

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**Proposed Interim receiver**

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**Lawyers for proposed interim receiver**

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TAB 1

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N :

CWB MAXIUM FINANCIAL INC.

Plaintiff

- and -

1970636 ONTARIO LTD. o/a MT. CROSS PHARMACY,  
UMAIR N. NASIM, SHRIKANT MALHOTRA, 1975193 ONTARIO LTD. dba MTN  
RX & HEALTH AND ANGELO KIRKOPOULOS

Defendants

**NOTICE OF MOTION  
(Returnable May 16, 2018)**

The Plaintiff, CWB Maxium Financial Inc. (“CWB Maxium”), will make a motion to a judge, on Wednesday, May 16, 2018, at a time to be determined by then Commercial List or as soon after that time as the motion can be heard, at 330 University Ave, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard:

- ☐ in writing under subrule 37.12.1(1) because it is on consent or unopposed or made without notice;
- ☐ in writing as an opposed motion under subrule 37.12.1(4);
- ☒ orally.

**THE MOTION IS FOR:**

1. An Order substantially in the form attached as Tab 3 to the Motion Record including, *inter alia*, the following relief:

- (a) An Order abridging the time for service of this motion and validating service of notice hereof;
- (b) an Order pursuant to section 47(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C-43 as amended (the “**CJA**”) appointing msi Spergel inc. as receiver (in such capacity, the “**Interim Receiver**”) without security, of all of the assets, undertaking and properties of 1970636 Ontario Ltd. o/a Mt. Cross Pharmacy (the “**Debtor**” or “**Mt. Cross**”);
- (c) such further and other relief as may be required in the circumstances and this Honourable Court deems just.

**THE GROUNDS FOR THE MOTION ARE:**

1. CWB Maxium is a corporation duly incorporated pursuant to the laws of the Province of Ontario, carrying on business as a finance company, with offices in Richmond Hill and elsewhere.
2. The Debtor is a corporation incorporated pursuant to the laws of the Province of Ontario.
3. The Defendant, Umair N. Nasim (“**Nasim**”), is an individual residing in Mount Hope, Ontario. Nasim is the President and sole director of Mt. Cross.
4. The Defendant, Shrikant Malhotra (“**Malhotra**”), is an individual residing in Mississauga, Ontario. Malhotra is a shareholder of Mt. Cross.
5. Nasim and Malhotra are guarantors (collectively, the “**Guarantors**”) of all obligations owed by Mt. Cross to CWB Maxium.
6. The Defendant, Angelo Kirkopoulos (“**Kirkopoulos**”), is the Secretary and Treasurer of Mt. Cross. Kirkopoulos is also the President of Concession Wentworth Medical Centre Inc. (the “**CWMC**”).

7. The Defendant, 1975193 Ontario Ltd. dba Mtn Rx & Health (“**1975**”) is a corporation incorporated pursuant to the laws of the Province of Ontario, with a registered office in Binbrook, Ontario.

8. Mt. Cross operates a retail pharmacy (“**Pharmacy**”) at a leased premises located at 503 Concession Street in Hamilton, Ontario (the (“**Premises**”). The Premises is leased from CWMC.

9. On June 6, 2017, CWB Maxium and Mt. Cross entered into a promissory note (the “**Note**”) whereby Mt. Cross promised to pay to CWB Maxium the sum of \$4,300,450.00 with interest at the rate of 5.75% per annum and interest on overdue interest at the rate of 18% per annum to CWB Maxium.

10. As security for the Note, on June 5, 2017, CWB Maxium and Mt. Cross entered into a General Security Agreement (the “**GSA**”) whereby Mt. Cross granted to CWB Maxium a continuing security interest in all of Mt. Cross’s assets and undertakings and an assignment of Mt. Cross’ accounts in consideration for CWB Maxium continuing to deal with Mt. Cross.

11. The GSA provides, among other things, that if Mt. Cross fails to make a payment required pursuant to Note, the Plaintiff may require Mt. Cross to repay all obligations in full and may appoint a receiver over the assets and undertaking of Mt. Cross.

12. On May 25, 2017, CWB Maxium registered its security interest in the assets and undertaking of Mt. Cross pursuant to the *Personal Property Security Act* (the “**PPSA**”).

13. On June 5, 2017, the Guarantors executed personal guarantees (the “**Guarantees**”) whereby they guaranteed all of Mt. Cross’ obligations to CWB Maxium. In support of the Guarantees, they also executed General Security Agreements dated June 5, 2017 as security in respect to the Guarantees.

14. On or about April 15, 2018, 1970 defaulted in its obligations to CWB Maxium in that it failed to make the payments required pursuant to the Note.

15. On May 8, 2018, the Plaintiff delivered demands for payment and a Notice of Intention to Enforce Security to Mt. Cross and the Guarantors demanding payment in full of the amount of \$4,577,670.02.

16. Despite these demand letters, neither Mt. Cross nor the Guarantors have paid the amount owing to CWB Maxium under the Note and the Guarantees.

17. Pursuant to the terms of the Note, the GSA and the Guarantees, Mt. Cross and the Guarantors owe CWB Maxium the sum of \$4,577,670.02 as at May 8, 2018, plus interest, at the rate of 18% per annum.

18. Mt. Cross' business has been negatively impacted by the following developments:

- (a) Following 1970's purchase of the Pharmacy, most of the physicians located within the Premises moved their practices out of the building;
- (b) a competing pharmacy, which is located close to the Pharmacy, opened in February 2018. A significant number of client files have been transferred from Mt. Cross to the Competing Pharmacy;
- (c) Kirkopoulos, as a representative of CWMC, has required two of the remaining physicians in the Premises to vacate the building;
- (d) unauthorized changes have been made to the Pharmacy's website such that it defaults to the Competing Pharmacy; and
- (e) the Pharmacy's point of sale provider, Fillware Technologies ("Fillware") received an unauthorized request to merge the Pharmacy's prescription software system with the system for the Competing Pharmacy.

19. These developments place CWB Maxium's security in jeopardy. As the notice period under the Notice of Intention to Enforce Security has not yet elapsed, CWB Maxium requires that an interim receiver be appointed over the assets, undertaking and

property of Mt. Cross in order to permit CWB Maxium to stabilize and protect the pharmacy business.

20. CWB Maxium is the only secured creditor in respect to the Debtor;

21. CWB Maxium is entitled to the appointment of a receiver under the terms and conditions of the GSA;

22. In the circumstances, it is just and convenient that a receiver be appointed over the assets and undertaking of the Debtor;

23. Msi Spergel inc., is a licensed insolvency trustee and has consented to being appointed as interim receiver, without security, of all of the assets, undertakings and property of the Debtor acquired for, or used in relation to the businesses carried on by the Debtor; and

24. Such further and other grounds as counsel may advise and this Honourable Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

- (a) Affidavit of Daniel Gilchrist, sworn and the Exhibits attached thereto; and
- (b) such further and other evidence as counsel may advise and this Honourable Court may permit.

May 16, 2015

**MILLER THOMSON LLP**

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**Proposed Interim receiver**

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Email:

**Lawyers for proposed interim receiver**

CWB MAXIUM FINANCIAL  
Plaintiff

and 1970636 ONTARIO LTD. o/a MT. CROSS  
PHARMACY et al.  
Defendant

Court File No.: CV-18-597922-00CL

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

Proceeding commenced at TORONTO

**NOTICE OF MOTION  
(Returnable May 16, 2018)**

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Lawyers for the Plaintiff

## TAB 2

8

Court File No. CV-

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

CWB MAXIUM FINANCIAL INC.

Plaintiff

and

1970636 ONTARIO LTD. o/a MT. CROSS PHARMACY,  
UMAIR N. NASIM, SHRIKANT MALHOTRA, 1975193 ONTARIO LTD. dba  
MTN RX & HEALTH AND ANGELO KIRKOPOULOS

Defendants

**AFFIDAVIT OF DANIEL GILCHRIST  
(SWORN MAY 15, 2018)**

I, DANIEL GILCHRIST, of the Community of Georgetown, in the Regional Municipality of Halton, in the Province of Ontario, MAKE OATH AND SAY:

1. I am the Vice President, Healthcare for the Plaintiff, CWB Maxium Financial Inc. ("**CWB Maxium**"). I am the individual currently responsible for supervising the credit facilities of the Defendants with CWB Maxium and as such I have knowledge of the matters to which I depose. Where I have been advised of facts by third parties I have identified the source of the facts and I hereby state that I verily believe such facts to be true.
2. I make this Affidavit in support of CWB Maxium's application for the appointment of msi Spergel inc. ("**Spergel**") as interim receiver of the assets, undertaking and business of the Defendant 1970636 Ontario Ltd. o/a Mt. Cross Pharmacy ("**1970**" or "**Mt. Cross**") pursuant to section 47(1) of the *Bankruptcy and Insolvency Act* (the "**BIA**") and section

101 of the *Courts of Justice Act* (the "**CJA**") on the basis that the appointment of an interim receiver is necessary to preserve the Defendants' assets, books and records.

3. For the reasons explained below, CWB Maxium has recently received information that it should have received several months ago, which now brings into serious doubt the viability of the business of Mt. Cross. The appointment of an interim receiver is required on an urgent basis in order to preserve CWB Maxium's security.

### **Background**

4. CWB Maxium is a corporation duly incorporated pursuant to the laws of the Province of Ontario, carrying on business as a finance company, with offices in Richmond Hill and elsewhere. CWB Maxium provides financing to a variety of businesses, including to pharmacies.
5. Mt. Cross is a corporation incorporated pursuant to the laws of the Province of Ontario. Attached hereto as **Exhibit "A"** is a true copy of the corporation profile report for Mt. Cross.
6. The Defendant Umair N. Nasim ("**Nasim**") is an individual residing in Mount Hope, Ontario. Nasim is the President and sole director of Mt. Cross.
7. The Defendant Shrikant Malhotra ("**Malhotra**") is an individual residing in Mississauga, Ontario. Malhotra is a shareholder of Mt. Cross.
8. As set out in more detail below, Nasim and Malhotra are guarantors of all obligations owed by Mt. Cross to CWB Maxium.

9. The other officer of Mt. Cross is Angelo Kirkopoulos (**"Kirkopoulos"**). He is the Secretary and Treasurer of Mt. Cross.

### **The Pharmacy Business**

10. Mt. Cross operates a retail pharmacy (**"Pharmacy"**) at a leased premises located at 503 Concession Street in Hamilton, Ontario (the **"Premises"**). The Pharmacy is located in the Concession Wentworth Medical Centre (the **"Medical Centre"**).
11. The Medical Centre is owned by Concession Wentworth Medical Centre Inc. (the **"Landlord"**). Kirkopoulos is the President of the Landlord.
12. As set out in more detail below, Mt. Cross and CWB Maxium entered into a promissory note. Mt. Cross' obligations under the promissory note were secured pursuant to a general security agreement between Mt. Cross and CWB Maxium and guarantees executed by both Nasim and Malhotra (collectively, the **"Guarantors"**).
13. Mt. Cross has breached its obligations to CWB Maxium. Despite CWB Maxium's demands, Mt. Cross and the Guarantors have failed to cure the breach by Mt. Cross.
14. Accordingly, CWB Maxium brings this motion to appoint an interim receiver over the assets of 1970.

## The Promissory Note and General Security Agreement with Mt. Cross

15. In or about April 2017, Nasim and Malhotra approached CWB Maxium with respect to their proposed purchase of the Mt. Cross pharmacy business. Nasim and Malhotra advised CWB Maxium that they had been in negotiations with the shareholders of 1919932 Ontario Ltd., namely Orlando Den Cassavia and George Vlachodimos, (collectively, the “Vendor”) to acquire the Mt. Cross pharmacy business and its assets. They inquired whether CWB Maxium would agree to provide financing in respect to the purchase.
16. As part of the background to the proposed transaction, CWB Maxium was advised that the location had been an old Loblaw store that had been converted a number of years back into a pharmacy and a medical clinic. CWB Maxium was also advised that the Landlord had signed five year lease contracts (which had been renewed in 2017) with six physicians and a specialist, all of whom operated in the Medical Centre.
17. Pursuant to the purchase agreement, the total purchase price for the proposed transaction was \$5,550,000. The deposit under the proposed purchase was \$1,250,000 (the “Deposit”), which was to be paid by Nasim and Malhotra. The balance of the purchase price was to be financed by CWB Maxium.
18. After reviewing the financing opportunity, CWB Maxium agreed to finance the purchase.
19. On or about June 2, 2017, 1970, as purchaser, and 1919932 Ontario Ltd., as vendor, entered into an Agreement of Purchase and Sale (“Agreement”) in respect to the purchase of the pharmacy business and its assets. Attached hereto as **Exhibit “B”** is a true copy of the Agreement.

20. Accordingly, on June 6, 2017, CWB Maxium and Mt. Cross entered into a promissory note (the “**Note**”) whereby Mt. Cross promised to pay to CWB Maxium the sum of \$4,300,450.00 with interest at the rate of 5.75% per annum and interest on overdue interest at the rate of 18% per annum to CWB Maxium. Attached hereto as **Exhibit “C”** is a true copy of the Note.
21. Pursuant to the Note, Mt. Cross was to make payments of principal and interest on the 15<sup>th</sup> day of each and every month commencing on July 15, 2017, in the amount of \$47,265.20, up to and including June 15, 2022. On June 15, 2022, the sum of \$2,459,580.66 was to be paid by Mt. Cross.
22. As security for the Note, on June 5, 2017, CWB Maxium and Mt. Cross entered into a General Security Agreement (the “**GSA**”) whereby Mt. Cross granted to CWB Maxium a continuing security interest in all of Mt. Cross’s assets and undertakings and an assignment of Mt. Cross’ accounts in consideration for CWB Maxium continuing to deal with Mt. Cross. Attached hereto as **Exhibit “D”** is a true copy of the GSA.
23. The GSA provides that Mt. Cross shall be in default under the GSA if it defaults in payment of its obligations to CWB Maxium or if Mt. Cross or any other person liable to CWB Maxium for the amounts owed by Mt. Cross to CWB Maxium is in default under any other loan, debt or obligation owed to anyone else. Upon the occurrence of an event of default, CWB Maxium may require Mt. Cross to repay all obligations in full and may appoint a receiver over the assets and undertaking of Mt. Cross.
24. On May 25, 2017, CWB Maxium registered its security interest in the assets and undertaking of Mt. Cross pursuant to the *Personal Property Security Act* (the “**PPSA**”)

bearing registration no. 2017 0525 1436 1530 0729. Attached hereto as **Exhibit “E”** is a true copy of a PPSA search for Mt. Cross. CWB Maxium is the sole registrant against Mt. Cross.

#### **The Guarantor’s guarantees of the obligations owed by the Debtors**

25. On June 5, 2017, Nasim executed a guarantee (the “**Nasim Guarantee**”) whereby Nasim guaranteed all of Mt. Cross’ obligations to CWB Maxium. Attached hereto as **Exhibit “F”** is a true copy of the Nasim Guarantee.
26. On June 5, 2017, Malhotra executed a guarantee (the “**Malhotra Guarantee**”) whereby Malhotra guaranteed all of Mt. Cross’ obligations to CWB Maxium. Attached hereto as **Exhibit “G”** is a true copy of the Malhotra Guarantee.
27. Both Nasim and Malhotra also executed General Security Agreements dated June 5, 2017 as security in respect to the Nasim Guarantee and Malhotra Guarantee, copies of which are attached as **Exhibit “H”**.
28. For ease of reference, the Nasim Guarantee and the Malhotra Guarantee shall be collectively referred to hereafter as the “**Guarantees**”.

#### **Default under the Note and the Guarantees**

29. The Note first fell into default when the payment due on April 15, 2018 was returned on April 19, 2018 as a result of insufficient funds in Mt. Cross’ account.
30. This was not Mt. Cross’ first missed payment; Mt. Cross had missed payments on four prior occasions. As such, Steve Wasylyszyn (a sales agent with CWB Maxium) followed

up with Nasim the same day about the missed payment and advised that CWB Maxium would be making an automatic withdrawal for the same amount from the account on April 23, 2018. Attached hereto as **Exhibit "I"** is a true copy of Mr. Wasylyszyn's email dated April 19, 2018.

31. Accordingly, CWB Maxium attempted to make the withdrawal on April 23, 2018. The payment was returned on April 26, 2018 with the notation "Stop Payment". By email dated April 26, 2018, Dianne Holman, a portfolio administrator with CWB Maxium, advised Nasim of this and asked him to ensure that the "Stop Payment" was removed and that the funds were available on May 1, 2018 along with a return payment charge. Attached hereto as **Exhibit "J"** is a true copy of Ms. Holman's email dated April 26, 2018.
32. Or or about May 4, 2018, the automatic withdrawal from the Mt. Cross account scheduled for May 1, 2018 was returned again as a "stop payment".
33. In light the five returned payments, CWB Maxium issued a letter dated May 8, 2018 in which it demanded payment in full from 1970 of the amount of \$4,577,670.02 and enclosed a Notice of Intention to Enforce Security pursuant to the *Bankruptcy and Insolvency Act*. Due to an error with the postal code, CWB Maxium re-sent the demand letter to 1970 on May 10, 2018. Attached hereto as **Exhibit "K"** are true copies of the demand letter and the Notice of Intention to Enforce Security dated May 8, 2018 and May 10, 2018, delivered to 1970.
34. On May 8, 2018, CWB Maxium delivered a demand for payment to the Guarantors demanding payment in full of the amount of \$4,577,670.02. Attached hereto as **Exhibit "L"** are true copies of the demand letters delivered to the Guarantors.

35. Despite these demand letters, neither Mt. Cross nor the Guarantors have paid the amount owing to CWB Maxium.

**Alarming Information Provided by Guarantor**

36. As a result of the missed payment, an appointment was made to meet with Nasim to discuss the missed payment and the state of Mt. Cross' account.
37. On Thursday, May 10, 2018, Steve Wasylyszyn (a sales agent with CWB Maxium) and I travelled to Hamilton and paid a visit to the Mt. Cross pharmacy for the purpose of meeting with Nasim to discuss the missed payment under the Note. During that meeting, we were advised of the following by Nasim:
- (a) Upon the sale of the pharmacy, with the exception of one of the specialists, all of the physicians immediately moved their practices out of the Medical Centre. Further, the remaining General Practitioner located in the building has since retired. These departures have significantly impacted the Pharmacy;
  - (b) On top of this, a competing pharmacy had opened in February 2018 which is located approximately two blocks down the street from the Pharmacy. The competing pharmacy has also been negatively impacting the business. Nasim advised that he believes that the competing pharmacy is operated by 1975193 Ontario Ltd., dba MTN RX & Health (the "**Competing Pharmacy**"). According to a corporate profile report (attached as **Exhibit "M"**), the sole director is Ahmed Kassim ("**Kassim**"), whom I understand was locum pharmacist that previously worked at the Mt. Cross Pharmacy. Nasim also advised that the Competing

Pharmacy has also hired Mt. Cross' lead technician. Since April 1, 2018, Nasim has advised that approximately 675 client files have been transferred to the Competing Pharmacy;

- (c) As a result, Nasim advised us that he has lodged a complaint about the Competing Pharmacy and Kassim with the Ontario College of Pharmacists;
- (d) Nasim also advised that he suspects that Kirkopoulos is involved in the Competing Pharmacy and is actively taking steps to damage the Pharmacy in his capacity as a representative of the Landlord. For instance, it is his understanding that the remaining specialist and the foot doctor in the Medical Centre had been asked by Kirkopoulos to vacate by this week;
- (e) What is more alarming is that Nasim advised that he had recently discovered that the website for the Mt. Cross Pharmacy has been modified so that it defaults to the Competing Pharmacy. Nasim advised that he had no knowledge of this and did not authorize any modifications to the website. This needs to be investigated and immediately corrected to stanch the outward flow of client files from the Mt. Cross Pharmacy;
- (f) Nasim also revealed during our meeting that the Deposit (in respect to the purchase agreement) (\$1,250,000) was not paid by Nasim or Malhotra, despite the fact that the Agreement (see Exhibit B above) contained an acknowledgment by the Purchaser that the Deposit had been paid. This is of great concern to CWB Maxium as the payment of the Deposit (which was to be paid by the principals of 1970 from

non-borrowed sources) was a condition of CWB Maxium agreeing to finance the transaction; and

- (g) Nasim also advised that Kirkopoulos had been arrested for breaking into the Mt. Cross Pharmacy and stealing narcotics on the Premises on the evening of May 4, 2018.

38. In addition, Nasim subsequently advised me that he was contacted on May 11, 2018 by Fillware Technologies (“**Fillware**”) in which he was advised that Fillware had received instructions from an “Angela” to merge the Pharmacy’s “RX” software system (the point of sale system for prescriptions within a pharmacy) with the system for the Competing Pharmacy. Nasim advised Fillmore that no such request had been made and instructed Fillmore that no steps of this nature should be taken. This also needs to be investigated further.

39. Clearly, all of this information causes CWB Maxium great concern, as it appears to place CWB Maxium’s loan and security in significant jeopardy.

**Amounts owed by the Debtors and the Guarantor**

40. Pursuant to the terms of the Note, the GSA and the Guarantees, Mt. Cross and the Guarantors owe CWB Maxium the sum of \$4,577,670.02 as at May 8, 2018, plus interest, at the rate of 18% per annum.

***Need for a Receiver***

41. From CWB Maxium’s perspective, each of the issues noted above are serious and could severely impact CWB Maxium’s ability to realize upon its security. It is CWB Maxium’s

view that immediate action needs to be taken to appoint a receiver. As the notice period under the Notice of Intention to Enforce Security has not yet elapsed, CWB Maxium requires that an interim receiver be appointed over the assets, undertaking and property of Mt. Cross in order to permit CWB Maxium to stabilize and protect the pharmacy business.

42. The appointment will also allow Spergel to access the Defendants' books and records and evaluate the issues and developments raised by Nasim and investigate as necessary.
43. msi Spergel inc., is a licensed insolvency trustee and has consented to being appointed as interim receiver, without security, of all of the assets, undertakings and property of Mt. Cross acquired for, or used in relation to the businesses carried on by Mt. Cross. Attached hereto as **Exhibit "N"** is a true copy of the consent of msi Spergel inc. to act as the interim receiver.
44. I swear this affidavit in support of CWB Maxium's application to appoint an interim receiver over the assets, undertaking and property of Mt. Cross and for no other or improper purpose.

**SWORN BEFORE ME** at the City of  
Vaughan, on May 15, 2018



Commissioner for Taking Affidavits  
(or as may be)

Ivan Mitchell Merrow  
**LAWYER**

}



DANIEL GILCHRIST

# TAB A

This is Exhibit "A" referred to in the affidavit  
of DANIEL GILCHRIST, SWORN BEFORE ME  
this 15<sup>th</sup> day of MAY, 2018



---

A COMMISSIONER FOR TAKING AFFIDAVITS

IVAN MERROW  
LAWYER

Request ID: 021642723  
Transaction ID: 68056327  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2018/05/14  
Time Report Produced: 14:16:17  
Page: 1

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## CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	Incorporation Date
1970636	1970636 ONTARIO LTD.	2017/04/18
		Jurisdiction
		ONTARIO
Corporation Type	Corporation Status	Former Jurisdiction
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE
Registered Office Address	Date Amalgamated	Amalgamation Ind.
503 CONCESSION ST	NOT APPLICABLE	NOT APPLICABLE
HAMILTON ONTARIO CANADA L9A 1C1	New Amal. Number	Notice Date
	NOT APPLICABLE	NOT APPLICABLE
Mailing Address		Letter Date
503 CONCESSION ST		NOT APPLICABLE
HAMILTON ONTARIO CANADA L9A 1C1	Revival Date	Continuation Date
	NOT APPLICABLE	NOT APPLICABLE
	Transferred Out Date	Cancel/Inactive Date
	NOT APPLICABLE	NOT APPLICABLE
	EP Licence Eff.Date	EP Licence Term.Date
	NOT APPLICABLE	NOT APPLICABLE
	Number of Directors Minimum Maximum	Date Commenced in Ontario
	00001 00001	Date Ceased in Ontario
Activity Classification		NOT APPLICABLE
NOT AVAILABLE		

Request ID: 021642723  
Transaction ID: 68056327  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2018/05/14  
Time Report Produced: 14:16:17  
Page: 2

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## CORPORATION PROFILE REPORT

### Ontario Corp Number

### Corporation Name

1970636

1970636 ONTARIO LTD.

### Corporate Name History

### Effective Date

1970636 ONTARIO LTD.

2017/04/18

### Current Business Name(s) Exist:

YES

### Expired Business Name(s) Exist:

NO

### Administrator:

#### Name (Individual / Corporation)

#### Address

ANGELO

KIRKOPOULOS

31 GREENWOOD STREET

HAMILTON  
ONTARIO  
CANADA L8T 3N2

### Date Began

### First Director

2017/04/18

NOT APPLICABLE

### Designation

### Officer Type

### Resident Canadian

OFFICER

SECRETARY

Request ID: 021642723  
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Category ID: UN/E

Province of Ontario  
Ministry of Government Services

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## CORPORATION PROFILE REPORT

### Ontario Corp Number

### Corporation Name

1970636

1970636 ONTARIO LTD.

### Administrator:

#### Name (Individual / Corporation)

#### Address

ANGELO

KIRKOPOULOS

31 GREENWOOD STREET

HAMILTON  
ONTARIO  
CANADA L8T 3N2

### Date Began

### First Director

2017/04/18

NOT APPLICABLE

### Designation

### Officer Type

### Resident Canadian

OFFICER

TREASURER

### Administrator:

#### Name (Individual / Corporation)

#### Address

UMAIR

NASIM

503 CONCESSION STREET

HAMILTON  
ONTARIO  
CANADA L9A 1C1

### Date Began

### First Director

2017/04/18

NOT APPLICABLE

### Designation

### Officer Type

### Resident Canadian

DIRECTOR

Y

Request ID: 021642723  
Transaction ID: 68056327  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

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## CORPORATION PROFILE REPORT

### Ontario Corp Number

### Corporation Name

1970636

1970636 ONTARIO LTD.

### Administrator:

#### Name (Individual / Corporation)

#### Address

UMAIR

NASIM

503 CONCESSION STREET

HAMILTON  
ONTARIO  
CANADA L9A 1C1

### Date Began

### First Director

2017/04/18

NOT APPLICABLE

### Designation

### Officer Type

### Resident Canadian

OFFICER

PRESIDENT

Y

Request ID: 021642723  
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Category ID: UN/E

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## CORPORATION PROFILE REPORT

### Ontario Corp Number

### Corporation Name

1970636

1970636 ONTARIO LTD.

### Last Document Recorded

Act/Code	Description	Form	Date
CIA	INITIAL RETURN	1	2017/05/04 (ELECTRONIC FILING)

THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

## TAB B

This is Exhibit "B" referred to in the affidavit  
of DANIEL GILCHRIST, SWORN BEFORE ME  
this 15<sup>th</sup> day of MAY, 2018



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A COMMISSIONER FOR TAKING AFFIDAVITS

IVAN MERROW  
LAWYER

**AGREEMENT OF PURCHASE AND SALE**

DATED: June 2, 2017

BETWEEN:

Vendor:

**1919932 ONTARIO LTD.**

Purchaser:

**1970636 ONTARIO LTD.**

**FABER & OOSTDYK**  
**o/u Sean Oostdyk Professional Corporation**  
Lawyers  
1025 Waterdown Road  
Burlington, Ontario  
L7T 1N4

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This Agreement effective as of the 2<sup>nd</sup> day of June, 2017

BETWEEN:

**1970636 ONTARIO LTD.** a corporation incorporated under the laws of the Province of Ontario and having its head office in the City of Hamilton;

(the "Purchaser")

and

**1919932 ONTARIO LTD.** a corporation incorporated under the laws of the Province of Ontario and having its head office in the City of Hamilton (Ancaster), operating as "Mt. Cross Pharmacy";

(the "Vendor")

**ORLANDO DEN CASSAVIA (hereinafter called "Orlando") and  
GEORGE VLACHODIMOS (hereinafter called "George")**, of the City of Hamilton (Ancaster), Province of Ontario;

(hereinafter collectively called the "Shareholders").

WHEREAS:

1. The Vendor is the owner of the assets, and wishes to sell, and the Purchaser wishes to purchase, the undertaking and all of the assets of such business on the terms and subject to the conditions hereinafter contained;
2. The Shareholders control the Vendor;

NOW THEREFORE in consideration of the premises and the mutual agreements and covenants herein contained, the parties hereto hereby covenant and agree as follows:

## 1. Interpretation

1.1 **Defined terms.** In this agreement and in the Schedules hereto, unless there is something in the subject-matter or context inconsistent therewith, the following terms and expressions will have the following meanings:

- (a) "Affiliate" of any person means any corporation which, directly or indirectly, is controlled by, controls or is under direct or indirect common control with such person;
- (b) "arm's length" will have the meaning ascribed to such term under the *Income Tax Act*, R.S.C. 1952, c. 148 (Canada);
- (c) "Assumed Contracts" means all contracts, Commission Contracts,

agreements, orders, commitments and other engagements by or with third parties relating to the Business which are included in the Purchased Assets;

(d) "Business" means the business carried on by the Vendor which primarily involves the operation of a pharmacy, located at 503 Concession Street, Hamilton, Ontario;

(e) "Business Day" means any day other than a day which is a Saturday, a Sunday or a statutory holiday in Ontario;

(f) "Closing Date" means May 5, 2017, or such other date as the Vendor and Purchaser may agree upon;

(g) "Condition" of the Business means the condition of the assets, liabilities, operations, activities, earnings, prospects, affairs and financial position of the Business;

(h) "Conditional" means a contract which, on the Closing Date, is conditional by its terms and pursuant to which the parties thereto are not obligated by law to complete until the occurrence of a specified event;

(i) "Encumbrances" means mortgages, charges, pledges, security interests, liens, encumbrances, actions, claims, demands and equities of any nature whatsoever or howsoever arising and any rights or privileges capable of becoming any of the foregoing;

(j) "Excluded Assets" means those assets of the Business referred to in Section 2.3 hereof;

(k) "Firm" means a contract which is, on the Closing Date, not conditional upon its terms and pursuant to which the parties thereto are obligated by law to complete;

(l) "Person" means and includes any individual, corporation, partnership, firm, joint venture, syndicate, association, trust, government, governmental agency or board or commission or authority, and any other form of entity or organization;

(m) "Purchase Price" means the sum of Five Million Four Hundred and Fifty Thousand Dollars (\$5,450,000.00) plus an agreed-upon value of Inventory;

(n) "Purchased Assets" means the undertaking, goodwill and assets, (including the assets listed on Schedule "A") of the Business which are to be sold by the Vendor to the Purchaser pursuant to Section 2.1 hereof;

(o) "Warranty Claim" means a claim made by either the Purchaser or the Vendor based on or with respect to the inaccuracy or non-performance or non-fulfillment

or breach of any representation or warranty made by the other party contained in this agreement or contained in any document or certificate given in order to carry out the transactions contemplated hereby;

(0) "Deposit" shall mean the monies paid on account of the purchase price under this agreement, which shall be refundable in the case this transaction fails to close through no fault of the Purchaser;

(p) "Down Payment" shall mean the total monies paid on account of the purchase price on the closing of this agreement and shall include the deposit.

**1.2 Best of knowledge.** Any reference herein to "the best of the knowledge" of the Vendor and the Shareholders will mean the actual knowledge of the Vendor and the Shareholders or any one of them, as the case may be.

**1.3 Schedules.** The Schedules which are attached to this agreement are incorporated into this agreement by reference and are deemed to be part hereof.

**1.4 Currency.** Unless otherwise indicated, all dollar amounts referred to in this agreement are in lawful money of Canada.

**1.5 Choice of law and attornment.**

(1) This agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

(2) The parties agree that the courts of that province will have exclusive jurisdiction to determine all disputes and claims arising between the parties.

**1.6 Interpretation not affected by headings or party drafting.** The division of ~~this agreement into articles, sections, paragraphs, subparagraphs and clauses and the~~ insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this agreement. The terms "this agreement", "hereof", "herein", "hereunder" and similar expressions refer to this agreement and the Schedules hereto and not to any particular article, section, paragraph, subparagraph, clause or other portion hereof and include any agreement or instrument supplementary or ancillary hereto. Each party hereto acknowledges that it and its legal counsel have reviewed and participated in settling the terms of this agreement, and the parties hereby agree that any rule of construction to the effect that any ambiguity is to be resolved against the drafting party shall not be applicable in the interpretation of this agreement.

**1.7 Number and gender.** In this agreement, unless there is something in the subject matter or context inconsistent therewith,

(a) words in the singular number include the plural and such words shall be

construed as if the plural had been used,

- (b) words in the plural include the singular and such words shall be construed as if the singular had been used, and
- (c) words importing the use of any gender shall include all genders where the context or party referred to so requires, and the rest of the sentence shall be construed as if the necessary grammatical and terminological changes had been made.

**1.8 Time of essence.** Time shall be of the essence hereof.

## **2. Purchase and Sale**

**2.1 Purchased Assets.** On the terms and subject to the fulfillment of the conditions hereof, the Vendor hereby agrees to sell, transfer and assign to the Purchaser, and the Purchaser hereby agrees to purchase and accept from the Vendor, the undertaking of the Business as a going concern and all properties, assets, rights and interests of the Vendor related to the Business of every kind and description and wheresoever situate, except for the Excluded Assets. Without limiting the generality of the foregoing, the Purchased Assets will include the following assets:

- (a) all equipment and assets as listed on Schedule "A" hereto;
- (b) Business Records: all books, records, files and documents relating to the goodwill of the Business, including without limitation, sales and purchase records, lists of suppliers and customers cost and pricing information, business reports, plans and projections and all other correspondence, data and information, financial or otherwise, in any format and media whatsoever, related to the Business;
- ~~(c) Goodwill, Name, etc.: the goodwill of the Business, together with the exclusive right of the Purchaser to represent itself as carrying on the Business in continuation of and in succession to the Vendor, and all rights in and title to the name "Mt. Cross Pharmacy" or variations thereof;~~
- (d) Other Agreements: all of the Vendor's rights, title and interest to and under all other contracts and agreements (written or oral) relating directly or indirectly to the Business, subject to the Purchaser's review and acceptance of such contracts and agreements prior to the Closing Date.

**2.2. Excluded assets.** There shall be specifically excluded from the assets being purchased and sold hereunder, the following assets, properties, rights and interests of the Vendor related to the Business:

- (a) None

**2.3 Liabilities and indemnity.** The Purchaser will not assume and will not be liable for, and the Vendor will indemnify the Purchaser from and against, all obligations, commitments and liabilities of and claims against the Vendor (whether absolute, accrued or contingent) relating to the Business, which arise from the operations of the Business prior to the closing date. Without limiting the generality of the foregoing, it is agreed that the Purchaser will have no liability for any of the following obligations or liabilities:

- (a) all liabilities in respect of all indebtedness of the Vendor to all persons;
- (b) all liabilities for all taxes, duties, levies, assessments and other such charges, including any penalties, interests and fines with respect thereto, payable by the Vendor to any federal, provincial, municipal or other government or governmental agency, authority, board, bureau or commission, domestic or foreign, including, without limitation, any taxes in respect of or measured by the sale, consumption or performance by the Vendor of any product or service prior to the Closing Date or any similar legislation in respect of all remuneration payable to all persons employed in the Business prior to the Closing Date;
- (c) all liabilities for salary, bonus, vacation pay and other compensation and all liabilities under employee benefit plans of the Vendor relating to employment of all persons in the Business prior to the Closing Date;
- (d) all severance payments, damages for wrongful dismissal and all related costs in respect of the termination by the Vendor of the employment of any employee of the Business who does not accept the Purchaser's offer of employment referred to in Section 5.2(b) hereof and in respect of any employee of the Business who is not offered employment by the Purchaser; and
- (e) all liabilities for claims for injury, disability, death or worker's compensation arising from or related to employment in the Business prior to the Closing Date.

**2.4 Purchase Price.** The Purchase Price payable by the Purchaser to the Vendor for the Purchased Assets will be the sum of Five Million, Four Hundred and Fifty Thousand Dollars (\$5,450,000.00), plus and agreed-upon amount for inventory, and subject to change with closing adjustments.

**2.5 Payment of Purchase Price.** The Purchase Price will be paid and satisfied as follows:

- (a) The Purchaser acknowledges receipt of the Deposit, in the amount of One Million, Two Hundred and Fifty Thousand Dollars (\$1,250,000.00). In the

event that this agreement fails to close as a result of the Vendor's breach, the entire deposit shall be refunded without interest or deduction.

- (b) At the Closing Date, the Purchaser will pay to the Vendor, or as the Vendor directs, by certified cheque or bank draft, the sum of Four Million Two Hundred Thousand Dollars, (\$4,200,000.00);

**2.6 Allocation of Purchase Price.** The Purchase Price shall be allocated among the Purchased Assets in the manner provided by Schedule "A" attached hereto. The Vendor and the Purchaser shall file their respective tax returns prepared in accordance with such allocation.

**2.7 Payment of taxes.** The Purchaser shall be liable for and shall pay all applicable federal and provincial sales taxes, goods and services taxes, excise taxes and all other taxes (other than income taxes of the Vendor), duties and other like charges properly payable on and in connection with the conveyance and transfer of the Purchased Assets to the Purchaser. The Vendor will do and cause to be done such things as are reasonably requested to enable the Purchaser to comply with such obligation in an efficient manner.

**2.8 Goods and Services Tax exemption.**

(1) The Vendor and George hereby represent and warrant to the Purchaser that:

- (a) the Vendor is registered for purposes of Part IX of the *Excise Tax Act*, R.S.C. 1985, c. E-15 (Canada) (the "GST/HST Legislation");
- (b) the Purchased Assets comprise all or substantially all of the property used in the Business; and
- (c) the Business is a "commercial activity" for purposes of the GST/HST Legislation.

(2) The Purchaser hereby represents and warrants to the Vendor that the Purchaser is registered for purposes of the GST/HST Legislation.

(3) The Vendor and the Purchaser will jointly execute in prescribed form, and the Vendor will file within the required time, an election under s. 167(1) of the *Excise Tax Act* (Canada) that no tax be payable pursuant to the GST/HST Legislation with respect to the purchase and sale of the Purchased Assets hereunder.

**3. Representations and Warranties**

**3.1 Representations and warranties by the Vendor and the Shareholder.** The Vendor and George hereby jointly and severally represent and warrant to the Purchaser as follows, and confirm that the Purchaser is relying upon the accuracy of

each of such representations and warranties in connection with the purchase of the Purchased Assets and the completion of the other transactions hereunder:

(1) *Corporate Authority and Binding Obligation.* The Vendor has good right, full corporate power and absolute authority to enter into this agreement and to sell, assign and transfer the Purchased Assets to the Purchaser in the manner contemplated herein and to perform all of the Vendor's obligations under this agreement. The Shareholders have good right, full power and authority to enter into this agreement and to perform all of the Shareholders' obligations under this agreement. The Vendor and its shareholders and board of directors have taken all necessary or desirable actions, steps and corporate and other proceedings to approve or authorize, validly and effectively, the entering into of, and the execution, delivery and performance of, this agreement and the sale and transfer of the Purchased Assets by the Vendor to the Purchaser. This agreement is a legal, valid and binding obligation of the Vendor and the Shareholders, enforceable against each of them in accordance with its terms subject to:

- (a) bankruptcy, insolvency, moratorium, reorganization and other laws relating to or affecting the enforcement of creditors' rights generally, and
- (b) the fact that equitable remedies, including the remedies of specific performance and injunction, may only be granted in the discretion of a court.

(2) *No Other Purchase Agreements.* No person has any agreement, option, understanding or commitment, or any right or privilege (whether by law, pre-emptive or contractual) capable of becoming an agreement, option or commitment, for the purchase or other acquisition from the Vendor of any of the Purchased Assets, or any rights or interest therein, other than in the ordinary course of the Business.

(3) *Contractual and Regulatory Approvals.* Except as specified in Schedule "B" attached hereto, the Vendor is not under any obligation, contractual or otherwise, to ~~request or obtain the consent of any person, and no permits, licences, certifications, authorizations or approvals of, or notifications to, any federal, provincial, municipal or local government or governmental agency, board, commission or authority are required to be obtained by the Vendor,~~

- (a) in connection with the execution, delivery or performance by the Vendor of this agreement or the completion of any of the transactions contemplated herein,
- (b) to avoid the loss of any permit, licence, certification or other authorization relating to the Business, or
- (c) in order that the authority of the Purchaser to carry on the Business in the ordinary course and in the same manner as presently conducted remains in good standing and in full force and effect as of and following the closing

of the transactions contemplated hereunder.

Complete and correct copies of any agreements under which the Vendor is obligated to request or obtain any such consent have been provided to the Purchaser.

(4) *Status and Governmental Licences.*

- (a) The Vendor is a corporation duly incorporated and validly subsisting in all respects under the laws of its jurisdiction of incorporation. The Vendor has all necessary corporate power to own its properties and to carry on its business as it is now being conducted.
- (b) The Vendor holds all necessary licences, registrations and qualifications in each jurisdiction in which,
  - (i) it owns or leases any of the Purchased Assets, or
  - (ii) the nature or conduct of the Business or any part thereof, or the nature of the Purchased Assets or any part thereof, makes such qualification necessary or desirable to enable the Business to be carried on as now conducted or to enable the Purchased Assets to be owned, leased and operated.

All of the Vendor's licences, registrations and qualifications are listed in Schedule "C" attached hereto and are valid and subsisting. Complete and correct copies of the licences, registrations and qualifications have been delivered to the Purchaser. The Vendor is in compliance with all terms and conditions of the licences, registrations and qualifications. There are no proceedings in progress, pending or, to the best of the knowledge of the Vendor and George, threatened, which could result in the revocation, cancellation or suspension of any of the licences, registrations or qualifications.

~~(5) Compliance with Constatng Documents, Agreements and Laws.~~ The execution, delivery and performance of this agreement and each of the other agreements contemplated or referred to herein by the Vendor, and the completion of the transactions contemplated hereby, will not constitute or result in a violation, breach or default, or cause the acceleration of any obligations which are included in the Assumed Liabilities, under:

- (a) any term or provision of any of the articles, by-laws or other constating documents of the Vendor,
- (b) subject to obtaining the contractual consents referred to in Schedule "B" hereof, the terms of any indenture, agreement (written or oral), instrument or understanding or other obligation or restriction to which the Vendor is a party or by which it is bound including, without limitation, any of the Assumed Contracts, or

- (c) subject to obtaining the regulatory consents referred to in Schedule "B" hereof, any term or provision of any of the Licences or any order of any court, governmental authority or regulatory body or any law or regulation of any jurisdiction in which the Business is carried on.

(6) *Financial Records.* All material financial transactions of the Business have been recorded in the financial books and records of the Vendor in accordance with good business practice, and such financial books and records,

- (a) accurately reflect in all material respects the basis for the financial condition and the revenues, expenses and results of operations of the Business shown in the Vendor's financial statements, and
- (b) together with all disclosures made in this agreement or in the Schedules hereto, present fairly in all material respects the financial condition and the revenues, expenses and results of the operations of the Business as of and to the date hereof.

No information, records or systems pertaining to the operation or administration of the Business are in the possession of, recorded, stored, maintained by or otherwise dependent on any other person.

(7) *Liabilities.* There are no liabilities (contingent or otherwise) of the Vendor of any kind whatsoever in respect of which the Purchaser may become liable on or after the consummation of the transactions contemplated by this agreement.

(8) *Absence of Certain Changes or Events.* Since April 1, 2017, the Vendor has not:

- (a) incurred any obligation or liability (fixed or contingent), except normal ~~trade or business obligations incurred in the ordinary course of the~~ Business, none of which is materially adverse to the Business;
- (b) created any Encumbrance upon any of the Purchased Assets, except as described in this agreement or in the Schedules hereto;
- (c) sold, assigned, transferred, leased or otherwise disposed of any properties or assets relating to the Business, except in the ordinary course of the Business;
- (d) purchased, leased or otherwise acquired any properties or assets relating to the Business, except in the ordinary course of the Business;
- (e) waived, cancelled or written-off any rights, claims, accounts receivable or any amounts payable to the Vendor relating to the Business, except in the

ordinary course of the Business;

- (f) entered into any transaction, contract, agreement or commitment relating to the Business, except in the ordinary course of the Business;
- (g) made any material change with respect to any method of management, operation or accounting in respect of the Business;
- (h) suffered any damage, destruction or loss (whether or not covered by insurance) relating to the Business which has materially adversely affected or could materially adversely affect the Condition of the Business;
- (i) increased any form of compensation or other benefits payable or to become payable to any of the employees of the Business, except increases made in the ordinary course of the Business which do not exceed five percent (5%), in the aggregate, of the amount of the aggregate salary compensation payable to all of the employees of the Business prior to such increase;
- (j) suffered any extraordinary loss relating to the Business;
- (k) made or incurred any material change in, or become aware of any event or condition which is likely to result in a material change in, the Condition of the Business or its relationships with its customers, suppliers or employees; or
- (l) authorized, agreed or otherwise become committed to do any of the foregoing.

(9) *Tax Matters.*

- ~~(a) For purposes of this agreement, the term "Governmental Charges" means~~ and includes all taxes, customs duties, rates, levies, assessments, reassessments and other charges, together with all penalties, interest and fines with respect thereto, payable to any federal, provincial, municipal, local or other government or governmental agency, authority, board, bureau or commission, domestic or foreign.
- (b) The Vendor has paid all Governmental Charges which are due and payable by it on or before the date hereof. There are no actions, suits, proceedings, investigations, enquiries or claims now pending or made or, to the best of the knowledge of the Vendor and George, threatened against the Vendor in respect of Governmental Charges. The Vendor has withheld from each amount paid or credited to any person the amount of Governmental Charges required to be withheld therefrom and has remitted such Governmental Charges to the proper tax or other receiving

authorities within the time required under applicable legislation.

(10) *Litigation.* There are no actions, suits or proceedings, judicial or administrative (whether or not purportedly on behalf of the Vendor) pending or, to the best of the knowledge of the Vendor and George, threatened, by or against or affecting the Vendor which relate to the Business, at law or in equity, or before or by any court or any federal, provincial, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign. There are no grounds on which any such action, suit or proceeding might be commenced with any reasonable likelihood of success.

(11) *Title to Assets.* The Vendor is the owner of and has good and marketable title to all of the Purchased Assets, free and clear of all Encumbrances whatsoever. No other person owns any assets which are being used in the Business, except for personal property leased by the Vendor.

(12) *Affiliates.* No part of the Business and none of the Purchased Assets are owned or operated by any Affiliate of the Vendor.

(13) *Partnerships or Joint Ventures.* The Vendor is not, in relation to any part of the Business, a partner or participant in any partnership, joint venture, profit-sharing arrangement or other association of any kind and is not party to any agreement under which the Vendor agrees to carry on any part of the Business in such manner or by which the Vendor agrees to share any revenue or profit of the Business with any other person.

(14) *Customers.* The Vendor has previously delivered to the Purchaser a true and complete list of all customers and former customers of the Business as of the date hereof. The Vendor is the sole and exclusive owner of, and has the unrestricted right to use, such customer list. Neither the customer list nor any information relating to the customers of the Business have, within three years prior to the date of this agreement, been made available to any person other than the Purchaser.

(15) *Restrictions on Doing Business.* The Vendor is not a party to or bound by any agreement in relation to the Business which would restrict or limit its right to carry on any activity or to solicit business from any person or in any geographical area or otherwise to conduct the Business as the Vendor may determine. The Vendor is not subject to any judgment, order or requirement of any court or governmental authority in relation to the Business which is not of general application to persons carrying on a business similar to the Business. To the best of the knowledge of the Vendor and George, there are no facts or circumstances in relation to the Business which could materially adversely affect the ability of the Purchaser to continue to operate the Business as presently conducted following the completion of the transactions contemplated by this agreement.

(16) *Employees.* Schedule "D" attached hereto sets forth the name, job title,

duration of employment, vacation entitlement, employee benefit entitlement and rate of remuneration (including bonus and commission entitlement) of each employee of the Business. Schedule "D" also sets forth the names of all employees of the Business who are now on disability, maternity or other authorized leave or who are receiving workers' compensation or short-term or long-term disability benefits. All payments and obligations owing to such employees or sales representatives for the period up to the Closing Date have been satisfied by the Vendor in full.

(17) *Employment Agreements.* Other than as disclosed herein and as listed on Schedule "D" the Vendor is not a party to any written or oral employment, service or consulting agreement relating to any one or more persons working in the Business, except for oral employment agreements which are of indefinite term and without any special arrangements or commitments with respect to the continuation of employment or payment of any particular amount on termination of employment. There are no employees of the Business who cannot be dismissed on such period of notice as is required by law in respect of a contract of hire for an indefinite term.

(18) *Employee Benefit and Pension Plans.* The Vendor does not have, and is not subject to any present or future obligation or liability under, any pension plan, deferred compensation plan, retirement income plan, stock option or stock purchase plan, profit sharing plan, bonus plan or policy, employee group insurance plan, hospitalization plan, disability plan or other employee benefit plan, program, policy or practice, formal or informal, with respect to any of the employees of the Business, other than the Canada Pension Plan and the Ontario Health Insurance Plan and other similar health plans established pursuant to statute.

(19) *Non-Arm's Length Matters.* With respect to the Business, the Vendor is not a party to or bound by any agreement with, is not indebted to, and no amount is owing to the Vendor by, any of the Affiliates of the Vendor or any officers, former officers, directors, former directors, shareholder, former shareholder, employees (except for oral employment agreements with employees) or former employees of the Vendor or to any person not dealing at arm's length with any of the foregoing.

(20) *Compliance with Laws.* In relation to the Business, the Vendor is not in violation of any federal, provincial or other law, regulation or order of any government or governmental or regulatory authority, domestic or foreign, including, without limitation, any law, regulation or order relating to real estate brokerages.

(21) *Complete Conveyance.* Except for the Excluded Assets, the assets included in the Purchased Assets constitute all of the assets of the Vendor used in carrying on the Business. The Purchased Assets include all rights, properties, interests, assets (both tangible and intangible) and agreements necessary to enable the Purchaser to carry on the Business in the same manner and to the same extent as it has been carried on by the Vendor prior to the date hereof.

(22) *Vendor's Residency.* The Vendor is not a non-resident of Canada within the

meaning of the *Income Tax Act* (Canada).

(23) *Copies of Documents.* Complete and correct copies (including all amendments) of all contracts, leases and other documents referred to in this agreement or any Schedule hereto or required to be disclosed hereby have been delivered to the Purchaser.

(24) *Disclosure.* No representation or warranty contained in this Section 3.1, and no statement contained in any Schedule, certificate, list, summary or other disclosure document provided or to be provided to the Purchaser pursuant hereto, or in connection with the transactions contemplated hereby, contains or will contain any untrue statement of a material fact, or omits or will omit to state any material fact which is necessary in order to make the statements contained therein not misleading.

(25) *Statutory Liens.*

- (a) The Vendor has paid in full all amounts owing to employees under the *Labour Standards Act*, and there are no claims or potential claims against the Vendor by former employees for wrongful dismissal.
- (b) The Vendor has paid all amounts owing for the supply of utilities or telephone services.
- (c) The Vendor has deducted and paid to the appropriate governmental authorities all payroll source deductions as required, including workers' compensation, unemployment insurance, Canada Pension Plan, and income tax.
- (d) The Vendor has collected and remitted all amounts required by all governmental authorities as provincial sales tax, education and health tax, and other taxes of similar nature.

(26) *Access to Financial Records, etc.*

The Vendor agrees to make available to the Purchaser, its employees and agents, all books of account, credit information, ledgers, journals and financial statements as may reasonably be required by the Purchaser to carry on the business and preserve the goodwill being purchased herein.

(26) *Pharmaceuticals*

Orlando represents and warrants that the pharmaceutical dispensing has been done in accordance with all rules and regulations applicable thereto.

**3.2 Representations and warranties by the Purchaser.** The Purchaser hereby represents and warrants to the Vendor and the Shareholders as follows, and confirms

that the Vendor and the Shareholders are relying on the accuracy of each of such representations and warranties in connection with the sale of the Purchased Assets and the completion of the other transactions hereunder:

(1) *Corporate Authority and Binding Obligation.* The Purchaser is a corporation duly incorporated and validly subsisting in all respects under the laws of its jurisdiction of incorporation. The Purchaser has good right, full corporate power and absolute authority to enter into this agreement and to purchase the Purchased Assets from the Vendor in the manner contemplated herein and to perform all of the Purchaser's obligations under this agreement. The Purchaser and its shareholders and board of directors have taken all necessary or desirable actions, steps and corporate and other proceedings to approve or authorize, validly and effectively, the entering into of, and the execution, delivery and performance of, this agreement and the purchase of the Purchased Assets by the Purchaser from the Vendor. This agreement is a legal, valid and binding obligation of the Purchaser, enforceable against it in accordance with its terms subject to:

- (a) bankruptcy, insolvency, moratorium, reorganization and other laws relating to or affecting the enforcement of creditors' rights generally, and
- (b) the fact that equitable remedies, including the remedies of specific performance and injunction, may only be granted in the discretion of a court.

(2) *Contractual and Regulatory Approvals.* The Purchaser is not under any obligation, contractual or otherwise to request or obtain the consent of any person, and no permits, licences, certifications, authorizations or approvals of, or notifications to, any federal, provincial, municipal or local government or governmental agency, board, commission or authority are required to be obtained by the Purchaser in connection with the execution, delivery or performance by the Purchaser of this agreement or the completion of any of the transactions contemplated herein.

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(3) *Compliance with Constatting Documents, Agreements and Laws.* The execution, delivery and performance of this agreement and each of the other agreements contemplated or referred to herein by the Purchaser, and the completion of the transactions contemplated hereby, will not constitute or result in a violation or breach of or default under:

- (a) any term or provision of any of the articles, by-laws or other constating documents of the Purchaser,
- (b) subject to obtaining the contractual consents referred to in Schedule "B" hereof, the terms of any indenture, agreement (written or oral), instrument or understanding or other obligation or restriction to which the Purchaser is a party or by which it is bound, or

- (c) subject to obtaining the regulatory consents referred to in Schedule "C" hereof, any term or provision of any licences, registrations or qualification of the Purchaser or any order of any court, governmental authority or regulatory body or any applicable law or regulation of any jurisdiction.

(4) *Investment Canada Act*. The Purchaser is not a "non-Canadian" for purposes of and within the meaning of the *Investment Canada Act*, R.S.C. 1985, c. 28 (1st Supp.).

(5) *Restrictions on Doing Business*. The Purchaser is not a party to or bound by any agreement in relation to the Business which would restrict or limit its right to carry on any activity or to solicit business from any person or in any geographical area or otherwise to conduct the Business as the Purchaser may determine. The Purchaser is not subject to any judgment, order or requirement of any court or governmental authority in relation to the Business which is not of general application to persons carrying on a business similar to the Business.

#### **4. Survival and Limitations of Representations and Warranties**

**4.1 Survival of warranties by the Vendor and Shareholder.** The representations and warranties made by the Vendor and the Shareholders and contained in this agreement, or contained in any document or certificate given in order to carry out the transactions contemplated hereby, will survive the closing of the purchase of the Purchased Assets provided for herein and, notwithstanding such closing or any investigation made by or on behalf of the Purchaser or any other person or any knowledge of the Purchaser or any other person, shall continue in full force and effect for the benefit of the Purchaser, provided that no Warranty Claim may be made or brought by the Purchaser after the date which is two (2) years following the Closing Date.

After the expiration of the period of time referred to in the foregoing paragraph of this section, the Vendor and the Shareholders will be released from all obligations and liabilities in respect of the representations and warranties made by the Vendor and the Shareholders and contained in this agreement or in any document or certificate given in order to carry out the transactions contemplated hereby except with respect to any claims made by the Purchaser in writing prior to the expiration of such time period.

**4.2 Survival of warranties by Purchaser.** The representations and warranties made by the Purchaser and contained in this agreement or contained in any document or certificate given in order to carry out the transactions contemplated hereby will survive the closing of the purchase and sale of the Purchased Assets provided for herein and, notwithstanding such closing or any investigation made by or on behalf of the Vendor or the Shareholders or any other person or any knowledge of the Vendor or the Shareholder or any other person, shall continue in full force and effect for the benefit of the Vendor and the Shareholders; provided that no Warranty Claim may be made or brought by the Vendor after the date which is two (2) years following the Closing Date.

## 5. Covenants

**5.1 Covenants by the Vendor and the Shareholder.** The Vendor and George jointly and severally covenant to the Purchaser that they will do or cause to be done the following:

- (a) *Delivery of Purchased Assets.* The Vendor shall ensure that all existing insurance coverage is maintained until closing.
- (b) *Transfer of Purchased Assets.* On or before the Closing Date, the Vendor and the Shareholders will cause all necessary steps and corporate proceedings to be taken in order to permit the Purchased Assets to be duly and regularly transferred to the Purchaser.
- (c) *Forms of Conveyance.* On the Closing Date, the Vendor will deliver to the Purchaser good and marketable title to and exclusive possession of the Purchased Assets, free and clear of any and all Encumbrances. At the Closing Time, the Vendor will execute and deliver to the Purchaser one or more forms of general conveyance, or bills of sale, deeds, transfers and other documents reasonably requested by the Purchaser in respect of the assignment, conveyance, transfer and delivery of the Purchased Assets to the Purchaser in form which is register able and acceptable to the Purchaser.
- (d) *Retail Sales Tax.* Deleted.
- (e) *Bulk Sales Act Legislation.* Deleted.
- (f) *Non-Competition Agreement.* On the Closing Date, the Vendor and the Shareholder will execute and deliver to the Purchaser a non-competition agreement in the form of the draft agreement attached hereto as Schedule "E". In addition, at the Closing Time the Vendor will change/cancel its trade name to a name which does not include the words "Mt. Cross Pharmacy" or any variation or abbreviation thereof or reference thereto.
- (g) *Cancellation of Contracts.* The Vendor will, upon being so advised by the Purchaser, and at its own cost entirely, cancel all advertising contracts and other contracts under its control, whether in effect as at the Closing Date, or coming into effect thereafter.
- (h) *Notification of customers/clients.* The Vendor and the Shareholders will use their best efforts to notify all existing clients, including but not limited to, all persons on the customer/client list which is being transferred to the Purchaser pursuant to the provisions of this agreement, to deal directly

with the Purchaser and not with the Vendor subsequent to the Closing Date.

**5.2 Covenants by the Purchaser.** The Purchaser covenants to the Vendor and the Shareholders that it will do or cause to be done the following:

(a) *Employees.*

The Vendor will remain responsible and liable for all amounts which have accrued to all employees of the Business prior to the Closing Date including, without limitation, all salary, bonus, employee benefits and vacation pay. In addition, the Vendor will be liable for all severance payments, damages for wrongful dismissal and all related costs payable in respect of the termination of the employment of the employees of the Business by the Vendor at or prior to the Closing Time.

(b) Subject to paragraph 5.2(a) directly above, the Purchaser will hire all employees of the Vendor on the same terms and conditions as their employment with the Vendor.

**6. Indemnification and Set-Off.**

**6.1 Indemnity by the Vendor and the Shareholder.**

(1) The Vendor and George hereby jointly and severally agree to indemnify and save the Purchaser harmless from and against any claims, demands, actions, causes of action, damage, loss, deficiency, cost, liability and expense which may be made or brought against the Purchaser or which the Purchaser may suffer or incur as a result of, in respect of or arising out of:

- (a) ~~any non-performance or non-fulfillment of any covenant or agreement on the part of the Vendor or the Shareholder contained in this agreement or in any document given in order to carry out the transactions contemplated hereby;~~
- (b) any misrepresentation, inaccuracy, incorrectness or breach of any representation or warranty made by the Vendor or the Shareholder contained in this agreement or contained in any document or certificate given in order to carry out the transactions contemplated hereby; and
- (c) all costs and expenses including, without limitation, legal fees on a solicitor and client basis, incidental to, arising from or in respect of the foregoing.

(2) The obligations of indemnification by the Vendor and George pursuant to

paragraph (1) of this section will be subject to the limitations referred to in Section 4.1 hereof with respect to the survival of the representations and warranties by the Vendor and the Shareholder.

**6.2 Limited Set-Off.** In the event only of a breach of Warranty pursuant to paragraph 4.1(b), the Purchaser shall be entitled to set-off the balance of the amount owing on account of the Purchase Price, provided that:

- (a) the set-off so made shall be in lieu of any claim for damages whether actual, incurred or liquidated and no further claim shall be made by the Purchaser for such breach of Warranty.

**6.3 Mediation and Arbitration.** Except for an act or intervention by any governmental authority which has the effect of prohibiting the operation of the Business or a substantial part of the Business, the Purchaser shall not have a right of set-off and shall be obligated to continue to pay the Purchase Price or any balance thereof. In the event of a claim of breach of any Warranty, the Parties shall mediate such claim in the following manner:

- (a)
  - (i) The parties will endeavor to resolve any disputes between them on any matter in this Agreement by negotiation between themselves personally or by their lawyers, and, unless there is an emergency, neither party will initiate any other procedure until negotiations have exhausted all reasonable possibilities of resolution.
  - (ii) Whether the negotiations are conducted by the parties personally or by their lawyers, they may obtain the assistance of a mediator they select jointly.
  - (iii) If negotiations are conducted with the assistance of a mediator, and no agreement is reached, the mediator will disclose only this fact and make no report unless otherwise directed by the parties.
  - (iv) No evidence of anything said or of any admission or communication made in the course of the negotiations or mediation is admissible in any legal proceeding, except with the consent of all parties.
- (b) In the absence of a mediated agreement, the mediator shall have authority to make a binding decision or interpretation, and such decision shall be binding on all the parties. To the extent that the mediator requires further powers to conclude the matters in a binding manner, the *Arbitration Act* shall apply.

## 7. General Provisions

**7.1 Further assurances.** Each of the Vendor and the Purchaser hereby covenants and agrees that at any time and from time to time after the Closing Date it will, on the request of the others, do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered all such further acts, deeds, assignments, transfers, conveyances and assurances as may be required for the better carrying out and performance of all the terms of this agreement.

**7.2 Conditions for Benefit of Purchaser.** This Agreement shall be subject to the following conditions which are included for the sole benefit of the Purchaser and shall be waived by the Purchaser in its sole discretion:

- (a) Approval of all necessary financing from Desante Financial with approval of financing conditions by the Purchaser's accountant;
- (b) Approval by building manager at Vendor's place of business to continue and/or assign the lease to the Purchaser on the same terms and conditions as contained in the current lease between the Vendor and the landlord;
- (c) Approval and consent of the Vendor's equipment and inventory suppliers to continue to supply the Purchaser as the new business owner, and to assign the contracts to the Purchaser as required in the Purchaser's discretion; and,
- (d) Subject to the Vendor and Purchaser agreeing on the value of the inventory to be purchased by the Purchaser.

**7.3 Conditions for Benefit of Vendor.** This Agreement shall be subject to the following conditions which are included for the sole benefit of the Vendor and shall be waived by the Vendor in its sole discretion:

- (a) Release from the Vendor's obligations and those of any of the Shareholders, as applicable, under its current lease with respect to the commercial space leased, Desante Financial, the Vendor's bank, all suppliers of the Vendor's business, and all creditors of the Vendor and Shareholders.

### 7.4 Notices.

(1) Any notice, designation, communication, request, demand or other document, required or permitted to be given or sent or delivered hereunder to any party hereto shall be in writing and shall be sufficiently given or sent or delivered if it is:

- (a) delivered personally to an officer or director of such party,

- (b) sent to the party entitled to receive it by registered mail, postage prepaid, mailed in Canada, or
- (c) sent by telecopy machine.

(2) Notices shall be sent to the following addresses:

- (a) in the case of the Vendor and Shareholders,  
**c/o Angelo Kirkopoulos – 31 Greenwood Street, Hamilton, ON**
- (b) in the case of the Purchaser,  
**c/o Umair Nasim – 27 Spitfire Drive, Mount Hope, ON**

or to such other address or telecopier number as the party entitled to or receiving such notice, designation, communication, request, demand or other document shall, by a notice given in accordance with this section, have communicated to the party giving or sending or delivering such notice, designation, communication, request, demand or other document.

**7.5 Counterparts.** This agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument.

**7.6 Announcements.** No announcement with respect to this agreement will be made by any party hereto without the prior approval of the other parties, and in any event, not before May 5, 2017. The foregoing will not apply to any announcement by any party required in order to comply with laws pertaining to timely disclosure, provided that such party consults with the other parties before making any such announcement.

**7.7 Assignment.** The rights of the Vendor and the Shareholders hereunder shall not be assignable without the written consent of the Purchaser. The rights of the Purchaser hereunder shall not be assignable without the written consent of the Vendor and the Shareholder.

**7.8 Successors and Assigns.** This agreement shall be binding on and enure to the benefit of the parties hereto and their respective successors and permitted assigns. Nothing herein, express or implied, is intended to confer on any person, other than the parties hereto and their respective successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this agreement.

**7.9 Entire Agreement.** This agreement and the Schedules referred to herein constitute the entire agreement between the parties hereto and supersede all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, with respect to the subject-matter hereof. None of the parties hereto shall be bound or charged with any oral or written agreements, representations, warranties, statements,

promises, information, arrangements or understandings not specifically set forth in this agreement or in the Schedules, documents and instruments to be delivered on or before the Closing Date pursuant to this agreement. The parties hereto further acknowledge and agree that, in entering into this agreement and in delivering the Schedules, documents and instruments to be delivered on or before the Closing Date, they have not in any way relied, and will not in any way rely, on any oral or written agreements, representations, warranties, statements, promises, information, arrangements or understandings, express or implied, not specifically set forth in this agreement or in such Schedules, documents or instruments.

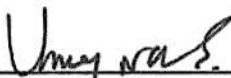
**7.10 Amendments.** No modification or amendment to this agreement maybe made unless agreed to by the parties hereto in writing.

**IN WITNESS WHEREOF** the parties hereto have duly executed this agreement under seal this 2<sup>nd</sup> day of June, 2017.

In the presence of:

**1970636 ONTARIO LTD.**

Per:




**Umair Nasim, President**

*"I have authority to bind the Corporation"*

**1919932 ONTARIO LTD.**

Per:



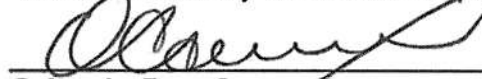
**Angelo Kirkopoulos, Secretary**

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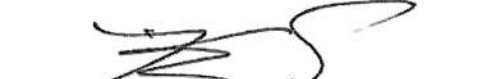


**George Vlachodimos, Treasurer**

*"We have authority to bind the Corporation"*



**Orlando Den Cassavia**



**George Vlachodimos**

**Schedule "A"****Equipment and Assets List****and Allocation of Purchase Price**

Capital Assets	\$ 1,250,000.00
Equipment and office supplies, including used equipment	200,000.00
Goodwill (including website, intellectual property, internet account, telephone numbers and yellow pages advertising, telephone fax and E-mail addresses related to the business, name – Mt. Cross Pharmacy	<u>4,000,000.00</u>
Total value: subject to change with closing adjustments	\$ 5,450,000.00 plus inventory*

\* Inventory - The sum payable for inventory will be adjusted based on the inventory in the Vendor's possession on the date of closing, which will be purchased by the Purchaser at no more than 100% of the Vendor's book cost of inventory. The Vendor will work down the inventory until the closing date. Any remaining inventory will be purchased by the Purchaser.

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**Schedule "B"****Contractual and Regulatory Approvals**

None

**Schedule "C"****Vendor's Licences, Registrations and Qualifications**

Ontario College of Pharmacists (OCP)

**Schedule "D"****Employees**

Angela Misiti-Abrantes

Jenny Tan

Elias Khanis

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## Schedule "E"

### Non-Competition Agreement

THIS AGREEMENT dated the 2<sup>nd</sup> day of June, 2017.

BETWEEN:

**1970636 ONTARIO LTD.**, a corporation incorporated under the laws of the Province of Ontario having its head office in the City of Hamilton;  
(the "Purchaser")

and

**1919932 ONTARIO LTD.**, a corporation incorporated under the laws of the Province of Ontario having its head office in the City of Hamilton (Ancaster);  
(the "Vendor")

and

**ORLANDO DEN CASSAVIA and GEORGE VLACHODIMOS** of the City of Hamilton (Ancaster), Province of Ontario;  
(the "Covenantor").

WHEREAS:

1. The Purchaser, the Vendor and the Covenantor are the parties to a purchase agreement relating to the purchase by the Purchaser and the sale by the Vendor of substantially all of the assets of the Vendor (the "Purchase Agreement"); and

2. The business carried on by the Vendor primarily involves the operation of a pharmacy located at 503 Concession Street, Hamilton, Ontario ("the Business"); and

~~3. It is a condition of the closing of the transactions contemplated by the~~  
Purchase Agreement that the Vendor and the Covenantor execute and deliver this Non-Competition Agreement; and

4. All capitalized terms and expressions, not otherwise defined herein, shall have the respective meanings assigned thereto in the Purchase Agreement;

The Parties agree:

### 1. Non-Competition

(1) The Vendor and the Covenantor acknowledge that they have become familiar with the proprietary aspects of the Business including certain of the confidential information and trade secrets related to the Business and agree:

- (a) For a period of five (5) years from the date hereof, the Vendor and the Covenantor will not, within the Territory, become licensed with any pharmacy or association, either as principal, agents or sales representatives, and the Vendor and the Covenantor, or either of them, will not establish a pharmacy of any kind, within the Territory;
- (b) For a period of five (5) years from the date hereof, the Vendor and the Covenantor will not within the Territory, for themselves, or on behalf of any other person, partnership, company, corporation or other entity, contact any supplier or customer of the Vendor, directly or indirectly, or aid, abet or assist any other person or entity in contacting any supplier or customer of the Vendor, for the purpose of initiating, engaging in or furthering competition with the Business, except that the Vendor may engage in such activity with respect to a supplier or customer of the Vendor if such activity does not adversely affect the business or prospects of the Business.
- (c) The Vendor and the Covenantor, for a period of FIVE (5) years from the date hereof and within the Territory:
  - (i) shall not accept employment with or directly or indirectly organize or participate in the organization of any firm, partnership, corporation, joint venture, sole proprietorship or other business entity if such firm, partnership, corporation, joint venture, sole proprietorship or entity is engaged or to be engaged in any business, conduct or activity in competition with that of the Business; and
  - (ii) shall not, directly or indirectly, either individually or as a consultant, employee, partner, owner, officer or stockholder, or in any other capacity whatsoever with respect to any person, firm, partnership, corporation, joint venture, sole proprietorship or other business entity engage in or aid, assist or abet others in engaging in any business, conduct or activity in competition with the Business.

(2) For the purposes of this Section 1 and this Agreement, "Territory" means:

- (i) The City of Hamilton and the Regional Municipality of Halton, in the Province of Ontario, Canada.

(3) In the event that a court of competent jurisdiction finds any subsection or subsections dealing with the territorial restriction of this Section to be unenforceable, then the City of Hamilton shall be deemed the governing restriction.

## **2. Equitable Remedies**

In the event of the Vendor's or a Covenantor's breach, or threatened breach, of any term or provision contained in this Agreement, the Vendor and the Covenantor agree that the Purchaser shall be entitled to both temporary and permanent injunctive relief. The right of the Purchaser to such relief shall not be construed to prevent the Purchaser from pursuing, either consecutively or concurrently, any and all other legal or equitable remedies available to it for such breach or threatened breach, specifically including without limitation the recovery of monetary damages.

## **3. Applicable Law and Choice of Forum**

This Agreement shall be interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The parties attorn to the courts of the Province of Ontario.

## **4. Severability**

If any term, provisions covenant or condition of this Agreement is declared invalid, illegal, unenforceable, ineffective or inoperative for any reason, such declaration shall not have the effect of invalidating or voiding the remainder of this Agreement, and the parties hereto agree that the part or parts of this Agreement so held to be invalid, illegal, unenforceable, ineffective or inoperative will be deemed to have been stricken herefrom and the remainder hereof will have the same force and effectiveness as if such part or parts had never been included herein.

## **5. Entire Agreement**

This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and shall not be altered, modified or amended, in whole or in part, except by the express written authorization and consent of the parties. In the event of a conflict between the terms hereof and those contained in the Purchase Agreement executed contemporaneously herewith, the terms of this Agreement shall control.

## **6. Waivers**

Any waiver by any party, whether express or implied, of any breach of any term, covenant or condition of this Agreement shall not constitute a waiver as to any subsequent breach of the same or of any other term, covenant or condition thereof. Failure of a party to declare any breach upon the occurrence thereof, or any delay by any party in taking action with respect to any breach, shall not waive any such breach.

## **7. Parties in Interest**

This Agreement and all terms, covenants and conditions contained herein shall

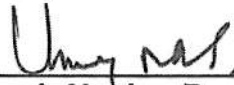
enure to the benefit of and shall be binding on the undersigned parties and their respective heirs, executors, administrators, trustees, successors and assigns.

IN WITNESS WHEREOF this Agreement has been executed by all of the parties hereto.

In the presence of:

**1970636 ONTARIO LTD.**

Per:



**Umair Nasim, President**

*"I have authority to bind the Corporation"*

**1919932 ONTARIO LTD.**

Per:



**Angelo Kirkopoulos, Secretary**



**George Vlachodimos, Treasurer**

*"We have authority to bind the Corporation"*



**Orlando Den Cassavia**



**George Vlachodimos**

TAB C

This is Exhibit "C" referred to in the affidavit  
of DANIEL GILCHRIST, SWORN BEFORE ME  
this 15<sup>th</sup> day of MAY, 2018



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A COMMISSIONER FOR TAKING AFFIDAVITS

IVAN MERROW  
LAWYER

55

**FIXED RATE PROMISSORY NOTE – VARIABLE PAYMENTS**

**\$4,300,450.00**  
**PRINCIPAL**

**CWB Maxium Financial Inc.**  
**Suite #1 – 30 Vogell Road**  
**Richmond Hill, Ontario**  
**L4B 3K6**

June 6, 2017  
**DATE**

**1. PROMISE TO PAY AND INTEREST**

For value received, 1970636 Ontario Ltd. (referred to in this Promissory Note (the "Note") as "you", "your" and "yours") with offices located at 503 Concession Street, Hamilton, ON N0G 1H0 promises to pay to CWB Maxium Financial Inc. and/or its successors and assigns (referred to in this Note as "we", "our", "ours" and "us"), the sum of Four Million Three Hundred Thousand Four Hundred Fifty Dollars and Zero Cents (\$4,300,450.00) ("Principal") in lawful money of Canada, with interest calculated and compounded monthly not in advance at 5.75% per annum ("Interest Rate") ("Interest") and interest on overdue Interest at 18% per annum. In the event the Principal balance, if any, is not paid in full at maturity, Interest shall accrue on the outstanding Principal thereafter amount at the rate of 18% per annum until paid. Provided that if such rate of interest exceeds the maximum permitted by law, the interest on overdue Interest shall be the maximum rate permitted by law.

**2. CALCULATION OF INTEREST AND REPAYMENT**

Interest shall be computed from the day the Principal is advanced (the "Commencement Date"). Principal and Interest shall be paid on the 15<sup>th</sup> day of each and every month commencing on the 15<sup>th</sup> day of July, 2017 and up to and including the 15<sup>th</sup> day of June, 2022 ("Term Date") when the balance, if any, of the Principal and Interest shall be paid. Principal and Interest shall be repaid in 60 consecutive monthly instalments as set out in the Schedule of Instalments below (the "Instalments").

No. of Instalments	Date From (inclusive)	Date To (inclusive)	Amount of Each Instalment
60	July 15, 2017	June 15, 2022	\$47,265.20
1	June 15, 2022	June 15, 2022	\$2,459,580.66

Each Instalment under this Note shall be applied first in payment of Interest and the balance, if any, shall be applied in reduction of Principal. Your obligations under this Note shall be absolute and unconditional and shall not be subject to any counter-claim, set-off or other claim whatsoever of yours against us.

**3. ACCELERATION**

In the event that (a) you default in making any payment when due hereunder or under any other agreement with us, (b) you fail to observe or perform any other covenant or obligation herein or in any other agreement with us, and such failure continues for seven days after the earlier of the day that you first have knowledge of such failure and the day on which we give you notice of such failure, (c) a default occurs under any agreement under which you have outstanding indebtedness or under which indebtedness is guaranteed by you, or any indebtedness of or guaranteed by you which is payable on demand is not paid on demand, (d) an order is made or a resolution passed for your winding-up or a notice of intention to make a proposal is filed or a proposal is made by you to your creditors under the Bankruptcy and Insolvency Act (the "Act") or a petition is filed by or against you or an authorized assignment is made by you under the Act or a receiver or agent is appointed with respect to you under any bankruptcy or insolvency legislation or by or on behalf of a secured creditor of yours or an application is made under the Companies' Creditors' Arrangement Act or any successor or similar legislation, (e) any circumstance changes or any event occurs which has or could have a material adverse effect on your financial condition, business, assets, properties or prospects, or (f) if you are a corporation, partnership or sole proprietorship, as the case may be, you permit any change of ownership or change your capital structure subsequent to the Commencement Date, you shall be required to pay us on demand, whereupon you shall immediately pay us, as a genuine pre-estimate of liquidated damages and not as a penalty, the present value of all Instalments required to be paid to and including the Term Date that have not been paid at the date of calculation (whether or not accrued or due and payable), discounted from the respective dates on which the Instalments would otherwise be payable to the date of calculation, at the lesser of (i) 3% per annum, compounded monthly or (ii) the then current yield prevailing for a Government of Canada bond with term remaining most closely approximating the period of time remaining hereunder at such time to the Term Date, and all other accrued and then unpaid Interest.

**4. NON-WAIVER**

The extension of the time for making any payment which is due and payable under this Note at any time or times or the failure, delay or omission on our part to exercise or enforce any of our rights or remedies hereunder or under any instrument securing

payment of the indebtedness evidenced by this Note shall not constitute a waiver of our right to enforce such rights and remedies thereafter.

#### **5. INTEREST ACT**

For the purposes hereof, whenever interest is calculated on the basis of a period other than a calendar year (the "Relevant Period"), each rate of interest determined pursuant to such calculation expressed as an annual rate for the purposes of the *Interest Act* (Canada) is equivalent to such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days in the Relevant Period.

#### **6. OTHER INFORMATION**

You will from time to time provide us with any information or document which we may reasonably request. You authorize us to conduct credit investigations and authorize us to release any credit information to credit reporting agencies and any of our assignees.

#### **7. NOTICE**

Notice must be in writing. Any document in connection with this Note will be considered to have been delivered to or served upon, and received by, you or us upon the earlier of actual receipt by an employee or an officer of the receiving party and (if mailed and there has been no interruption of postal service) the expiry of 10 days after the date the document was posted by prepaid ordinary mail to the receiving party's address as set out on the first page of this Note (or such other address as the receiving party may have last notified the sender).

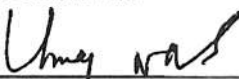
#### **8. LANGUAGE**

It is your wish and ours that this Note and all related documents be drawn up and signed in English. C'est votre désir et le notre que le présent Contrat et tous documents s'y rapportant soient rédigés et signés en anglais.

#### **9. MISCELLANEOUS**


(a) Time is of the essence in respect of this Note. (b) This Note will be governed by and construed in accordance with the laws of the province or territory where you are located. (c) This Note is the entire agreement between you and us with respect to the subject matter hereof and may be varied only by written documents signed by both parties. (d) If more than one person, firm, or corporate body signs this Note as the borrower, each is jointly and severally liable (which allows us, at our option, to require performance or payment of all obligations under this Note from any one of them or a portion from each). (e) A provision of this Note which is void or unenforceable in a jurisdiction is, as to that jurisdiction, ineffective to that extent without invalidating the remaining provisions. (f) You may not assign your rights and obligations under this Note, unless we give you our prior written approval. We may assign, in our sole discretion at any time, without your consent, our right, title and interest in this Note. You hereby consent to the delivery by us to any prospective assignee of such information concerning you as may be in our possession and requested by such assignee. Upon notice of an assignment you shall unconditionally pay to our assignee all instalment payments and other amounts due hereunder and shall not assert any defense against our assignee in any action for instalment payments or other amounts due and payable hereunder and you will not assert against our assignee any claim by way of abatement, defense, set-off, compensation or the like. (g) You agree to make payments under a pre-authorized payment plan which may be withdrawn on or about each Instalment payment due date, including arrears or other penalties which may be withdrawn at any time without notice. (h) You hereby waive the benefits of division and discussion, demand and presentment for payment, notice of non-payment, protest and notice of protest of this Note. (i) You have received a copy of this Note.

1970636 Ontario Ltd.

BY: 

Name: Umair Nasim

Title: President

BY: 

Name: Angelo Kirkopoulos

Title: Secretary-Treasurer

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**LETTER OF DIRECTION**

TO: CWB MAXIUM FINANCIAL INC. ("CWB MAXIUM")

RE: Fixed Rate Promissory Note dated June 6, 2017

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Please accept this Letter of Direction as your good and sufficient authority to make the following payments from the proceeds of the above noted agreement:

<u>Payee</u>	<u>Amount</u>
Cass & Bishop Professional Corporation, in Trust Re: 1970636 Ontario Ltd.	
Proceeds of Loan	\$4,300,000.00

DATED at Burlington this 2<sup>nd</sup> day of June, 2017.

**1970636 ONTARIO LTD.**

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Per: Umair Nasim  
Name: Umair Nasim  
Title: President

Per: Angelo Kirkopoulos  
Name: Angelo Kirkopoulos  
Title: Secretary-Treasurer

## TAB D

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This is Exhibit "D" referred to in the affidavit  
of DANIEL GILCHRIST, SWORN BEFORE ME  
this 15<sup>th</sup> day of MAY, 2018



---

A COMMISSIONER FOR TAKING AFFIDAVITS

IVAN MERROW  
LAWYER

## General Security Agreement

Customer: 1970636 Ontario Ltd.

Date:

June 5, 2017

## SECURITY INTEREST

In consideration of our dealing with or continuing to deal with you, you grant to us a continuing security interest in all of your Assets and Undertakings (defined below) and an assignment of your Account (defined below). The Assets and Undertakings over which you have granted us a security interest hereby, the Accounts assigned to us, together with the Proceeds (defined below) thereof, are hereinafter collectively called the "Collateral". You agree that we have not agreed to postpone the time for attachment of the security interest granted hereby with respect to your presently existing Collateral, that said security interest shall attach to any Collateral acquired after the date hereof as soon as you obtain rights in such Collateral and that value has been given.

## INDEBTEDNESS AND LIABILITY SECURED

You agree that the obligations secured by the security interest granted hereby (collectively, the "Obligations") include, without limitation, all your present and future obligations, indebtedness and liability to us, direct and indirect, absolute and contingent, whether matured or not matured, and include all costs and expenses (including legal fees and expenses) incurred by us in connection with our dealings with you.

## 1. DEFINITIONS OF COLLATERAL

**ASSETS AND UNDERTAKINGS** - all of your present and after acquired personal property and undertakings including without limitation, inventory, equipment, deposits and credit balances, investment property, life insurance (all as defined herein), all intangible and intellectual property, and all real and immovable property both freehold and leasehold, except for the last day of the term of any lease.

**INVENTORY** - all presently owned and after acquired goods and other property held for sale or lease or that have been leased or that are to be furnished or have been furnished under a contract of service, or that are raw materials, work in process, or materials used or consumed in your business or profession.

**EQUIPMENT** - all presently owned and after acquired goods that are owned by you other than inventory and consumer goods.

**DEPOSITS AND CREDIT BALANCES** - all monies and credit balances which are now or may hereafter be on deposit with or standing to your credit with us, and/or with any of our subsidiaries and affiliates, up to the amount set out on Schedule A (or all deposit and credit balances, if no amount is set out on Schedule A) and any amount of interest due or accruing due to you in connection with any such deposit or credit balance.

**INVESTMENT PROPERTY** - all present and future investment property held by you, including securities, shares, options, rights, warrants, joint venture interests, interests in limited partnerships, trust units, bonds, debentures and all other documents which constitute evidence of a share, participation or other interest of yours in property or in an enterprise or which constitute evidence of an obligation of the issuer (collectively called "Investment Property") including, without limitation, any Investment Property specifically identified in Schedule A; and all substitutions therefor and, subject to Section 5, dividends and income derived therefrom.

**LIFE INSURANCE** - the life insurance policy or policies described on Schedule A and any proceeds derived therefrom, and any amounts held by the insurer as pre-paid premiums or for the payment of future premiums.

## 2. ACCOUNTS

You absolutely assign and transfer to us all debts, accounts, choses in action, claims, demands, and moneys now due, owing, accruing, or which may hereafter become due, owing or accruing to you, together with all rights, benefits, security interests, mortgages, instruments, rights of action, deeds, books and records and documents now or hereafter belonging to you in respect of or as security for any of the foregoing (collectively called "Accounts"). This assignment is and shall be a continuing security to us for the Obligations. All money or any other form of payment received by you in payment of any Accounts shall, following any continuing Event of Default under this Agreement, be received and held by you in trust for us.

## 3. INVESTMENT PROPERTY

If any of the Collateral consists of Investment Property, (a) you authorize us to transfer such Collateral or any part thereof into our own name or that of our nominee so that we or our nominee may appear of record as the sole owner of such Collateral; provided, that until the occurrence of any continuing Event of Default, we shall deliver promptly to you all notices, statements or other communications received by us or our nominee as such registered owner, and upon demand and receipt of payment of necessary expenses thereof, shall give you or your designee a proxy or proxies to vote and take all action with respect to such Collateral; provided further that after the occurrence of any continuing Event of Default, you waive all rights to be advised of or to receive any notices, statements or communications received by us or our nominee as such registered owner, and agree that no proxy or proxies given to you or your designee by us shall thereafter be effective; and (b) you further agree to execute such other documents and to perform such other acts, and to cause any issuer or securities intermediary to execute such other documents and to perform such other acts as may be

necessary or appropriate in order to give us "control" of such Investment Property, as defined in the *Securities Transfer Act, 2006* (Ontario), which "control" shall be in such manner as we shall designate in our sole judgment and discretion, including, without limitation, an agreement by any issuer or securities intermediary that it will comply with instructions in the case of an issuer or entitlement orders in the case of a securities intermediary, originated by us, whether before or after the occurrence of any continuing Event of Default, without further consent from you.

## 4. PROCEEDS

You grant us a security interest on all of your property in any form derived directly or indirectly from an use or dealing with any Assets and Undertakings or Accounts or that indemnifies or compensates for Assets and Undertakings destroyed or damaged (all of which property is herein collectively called "Proceeds"). Proceeds shall be received and held by you in trust for us.

## 5. INCOME AND INTEREST ON INVESTMENT PROPERTY

Until the occurrence of any continuing Event of Default, you reserve the right to receive all income from or interest on the Collateral consisting of Investment Property, and if we receive any such income or interest prior to the occurrence of any continuing Event of Default, we agree to pay you such income or interest promptly. After the occurrence of any continuing Event of Default, you will not demand or receive any income from or interest on such Collateral, and if you receive any such income or interest, such income or interest shall be held by you in trust for us in the same medium in which received, shall not be commingled with any of your other assets and shall be delivered to us in the form received, properly endorsed to permit collection, not later than the next business day following the day of its receipt. We may apply the net cash receipts from such income or interest to payment of any of the Obligations, provided that we account for and pay over to you any such income or interest remaining after payment in full of the Obligations.

## 6. COSTS AND EXPENSES

You agree to pay the costs and expenses we incur to enforce this Agreement, register this Agreement or notice of it, repossess, maintain, preserve, repair or sell the Collateral, or appoint a consultant, receiver, receiver and manager or agent, and to pay interest thereon. You also agree to pay all legal costs and fees (including in-house legal fees, charges and expenses), incurred by us to do any of the above or to defend any legal claim or counterclaim by you or others respecting the manner of our enforcement of, or our right to enforce, this Agreement. You will pay the legal fees incurred by us on a solicitor and own client basis.

## 7. FREE AND CLEAR

You hereby represent and warrant to us that you are the owner of the Collateral free from any hypothec, mortgage, lien, charge, security interest or any other interest or claim including any proprietary or trust interest or encumbrance claimed by any third party. You hereby covenant and agree to keep the Collateral free and clear of all taxes, assessments, and security or proprietary interests in favour of third parties. You hereby covenant and agree to not sell, give away, part with possession of or otherwise dispose of any part of the Collateral, (except inventory sold in the normal course of business and obsolete equipment) without our prior written consent.

## 8. INSURANCE

You will, at your cost, keep the Collateral insured from all risk of loss, theft or damage as are customarily insured by businesses in the industry in which you are engaged. If requested, you will provide us with a copy of the insurance policy. The insurance policy will name us as first loss payee and additional insured. We may, in our absolute discretion, pay any premium due on any insurance policy, including any life insurance policy forming part of the Collateral, and the amount of any premium we pay will be added to and form part of the Obligations.

## 9. LOCATION OF COLLATERAL

You will keep the Collateral at the location or locations set out on Schedule A. You will not remove the Collateral from this location (except in the ordinary course of your business) without

our prior written consent. If no location is set out on Schedule A, you will keep the Collateral at the address shown below your signature to this Agreement.

#### 10. LIMITATION ON OBLIGATIONS OF CWB MAXIMUM

Our sole obligation with respect to the custody, safekeeping and physical preservation of Collateral in our possession shall be to use reasonable care in the custody and safekeeping thereof, and we shall be deemed to have used reasonable care if we deal with such Collateral in the same manner as we deal with similar property for our own account. Neither we nor any of our directors, officers, employees or agents shall be liable for failure to demand, collect or realize upon the Collateral or any part thereof or for any delay in doing so, or shall be under any obligation to sell or otherwise dispose of any Collateral whether at your request or otherwise.

#### 11. REPRESENTATIONS AND WARRANTIES

You hereby represent and warrant to us that:

- (a) if applicable, you are a corporation duly existing, or a partnership duly established, under the laws of the jurisdiction of your incorporation or establishment, have all necessary power and authority to own your property and assets, to carry on your business as currently carried on by you and hold all necessary licenses, permits and consents as are required so to own your property and assets and so to carry on business in each jurisdiction in which you do so;
- (b) you have the capacity, power and authority and the legal right to execute and deliver, to perform your obligations under, this Agreement, and have taken all necessary action, corporate or otherwise, to authorize the execution and delivery of this Agreement and the performance of your obligations hereunder;
- (c) this Agreement constitutes a legal, valid and binding obligation of yours enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity;
- (d) except for consents which have been obtained and are in full force and effect, no consent of any person is required, or purports to be required, in connection with the execution and delivery of this Agreement by you or the performance of your obligations hereunder;
- (e) the execution and delivery by you of this Agreement and the performance of your obligations hereunder will not violate any applicable law or contractual obligation applicable to you; and
- (f) the representations and warranties set out in clauses (a) through (e) above or in any certificate or other document delivered to us by you or on your behalf are material, shall be deemed to have been relied upon by us notwithstanding any investigation heretofore or hereafter made by us or on our behalf, shall survive the execution and delivery of this Agreement and shall continue in full force and effect without time limit.

#### 12. REPORTING

You will:

- (a) if you are a corporation, a partnership or a sole proprietorship, provide to us accountant-prepared financial statements within 120 days of each of your fiscal year ends;
- (b) if you are a pharmacy, provide to us RX Reports within 120 days of each of your fiscal year ends;
- (c) if you are an individual, provide to us your personal net worth statement upon request by us;
- (d) advise us of any Event of Default immediately upon the occurrence of such event;
- (e) inform us of any actual or probable material litigation and provide us with copies of all relevant documents upon request; and
- (f) provide us with such other information and financial data as we may request from time to time.

#### 13. POSITIVE COVENANTS

You agree to:

- (a) make all payments when due or demanded to us (without any condition, deduction, set-off or holdback) at our address noted above (or any other address that we advise);
- (b) if applicable, maintain your existence as a corporation, partnership, or sole proprietorship, as the case may be, and keep all material agreements, rights, franchises, licences, operations, contracts or other arrangements in full force and effect;
- (c) pay all taxes, which may result in a lien or charge on any of your property and assets;

- (d) maintain, protect and preserve the Collateral in good repair and working condition;
- (e) provide such security as we may require;
- (f) continue to carry on, and maintain in good standing, the business being carried on by you at the date hereof;
- (g) permit us or our authorized representatives full and reasonable access to your premises, business, financial and computer records and allow the duplication or extraction of pertinent information therefrom;
- (h) notify us in writing at least 20 days prior to any change of your name; and
- (i) notify us in writing promptly of any significant loss of or damage to the Collateral; and
- (j) maintain a consolidated Debt Service Coverage Ratio ("DSC Ratio") of at least 1.25x, as at each fiscal year end (where "DSC Ratio" means the ratio of:
  - (a) as the numerator, the consolidated earnings before interest expenses and other bank charges, amortization and depreciation, any other non-cash expenses, any realized gains and/or losses from the sale of any investments, property or other assets, non-arm's length management fees and salaries paid to related parties and income taxes for the twelve-month period ending at the given fiscal year end, divided by:
  - (b) as the denominator, the aggregate sum of all bank charges and all principal and interest payments for all debt and capital lease obligations during the twelve-month period for the given fiscal year.)

You also agree (i) to report the DSC Ratio and related calculations to us as part of the financial reporting required under clause 12 (a) and (ii) that calculations in connection with the DSC Ratio shall be subject to our review and approval and adjustments acting in our sole discretion.

#### 14. NEGATIVE COVENANTS

You will not:

- (a) create, incur, assume, or suffer to exist, any mortgage, deed of trust, pledge, lien, security interest, assignment, charge, or encumbrance (including without limitation, any conditional sale, or other title retention agreement, or financial lease) of any nature, upon or with respect to the Collateral, or sign or file under the *Personal Property Security Act* (Ontario) (the "PPSA") or similar registration system of any jurisdiction a financing statement which names you as a debtor or sign any security agreement authorizing any secured party thereunder to file such financing statement creating a security interest in the Collateral;
- (b) if you are a corporation, a partnership or a sole proprietorship, as the case may be, permit any change of ownership or change your capital structure without our prior written consent, such consent not to be unreasonably withheld;
- (c) transfer your interest in any part of the Collateral not expressly permitted under this Agreement or change the location(s) of the Collateral without our prior written consent;
- (d) make any investment in or acquisition of, or provide any guarantee or other financial assistance to, any other business entity or person without our prior written consent; or
- (e) make any payments or distributions including but not limited to dividend redemption or retraction payments or any other amounts in respect to any of your common shares, preferred shares or any other outstanding capital stock if there is an outstanding default or Event of Default, or any such payment causes a default or an Event of Default.

#### 15. DEFAULT

You shall be in default under this Agreement upon the happening of any of the following events (each, an "Event of Default"):

- (a) you or any other person liable for the Obligations is in default under any agreement relating to the Obligations or any part thereof;
- (b) you or any other person liable for the Obligations is in default under any other loan, debt or obligation owed to anyone else, subject to the passage of any applicable grace period;
- (c) you fail to perform any of the terms or conditions of this Agreement or any other agreement between you and us;
- (d) you become insolvent or bankrupt or make an assignment for the benefit of creditors or consent to the appointment of a trustee or receiver, or a trustee or receiver shall be appointed for you or for a substantial part of your property without your consent;
- (e) bankruptcy, reorganization or insolvency proceedings shall be instituted by or against you;
- (f) any statement made by you to induce us to extend credit to you was false in any material respect when made, or becomes false;
- (g) anyone takes possession of or applies to any court for possession of the Collateral, or anyone claims to have rights in the Collateral superior to our rights;
- (h) if you are an individual, you are declared incompetent by a court, or you die, or, if you are a partnership, a partner dies;
- (i) you pledge, encumber, mortgage or otherwise create or permit the continued existence of any lien or any other interest or claim including any proprietary or trust interest

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encumbrance claimed by any third party with respect to any of the Collateral, except for any lien granted by you in our favour;

- (j) you incur any indebtedness for borrowed money (including, without limitation, by guaranteeing the obligations of others) outside of the ordinary course of business;
- (k) you fail to deliver to us on a timely basis the financial information required by any agreement between us; or
- (l) any other event occurs which causes us in good faith, to deem ourselves insecure, or to believe that the Collateral, or any part thereof, or the value thereof, is or is about to be placed in jeopardy.

#### 16. REMEDIES

Upon the occurrence of an Event of Default, we may require you to repay any or all of the Obligations in full, whether matured or not, and we may enforce this Agreement by any method permitted by law, and we may exercise any rights and remedies under applicable law, and we may appoint any person, including our employee, to be an agent, a receiver or receiver and manager (the "Receiver") of the Collateral. We and the Receiver shall be entitled to:

- (a) seize and possess the Collateral;
- (b) carry on your business;
- (c) sell, lease or otherwise dispose of the Collateral;
- (d) foreclose on the Collateral;
- (e) in the case of Life Insurance, exercise any options available to you under the Life Insurance;
- (f) demand, sue for and receive Accounts, give effectual receipts and discharges for the Accounts, compromise any Accounts which may seem bad or doubtful to us and give time for payment thereof with or without security;
- (g) make any arrangement or compromise in our interest; or
- (h) take any other action deemed necessary to carry into effect the provisions of this Agreement.

The Receiver shall be your agent and you shall be solely responsible for the Receiver's actions. We shall not be in any way responsible for any misconduct or negligence on the part of the Receiver. If the proceeds of the realization of the Collateral are insufficient to repay us the Obligations in full, then you forthwith shall pay us such deficiency. The rights and powers in this paragraph are supplemental to and not in substitution for any other rights we may have from time to time.

#### 17. POWER OF ATTORNEY

You irrevocably appoint us your attorney, with power of substitution and appointment, to sign for you, at our option, all documents necessary or desirable to permit us to exercise any of our rights and remedies under this Agreement and to complete the Schedule attached hereto, with the right to use your name and to take proceedings in your name.

#### 18. NON WAIVER BY US

Any breach by you of this Agreement or the occurrence of an Event of Default may only be waived by us in writing. Any waiver by us does not mean that any subsequent breach or Event of Default is also waived. Any failure by us to notify you of an Event of Default shall not be deemed to be a waiver of such Event of Default. No course of conduct or omission on our part or on your part shall give rise to any expectation by you that we will not insist on strict compliance with the terms of this Agreement.

#### 19. DEALING WITH SECURITY INTEREST

~~We may take and give up any of the Collateral or modify or abstain from perfecting or taking advantage of our security interest in the Collateral and otherwise deal with any of the Collateral as we shall see fit without prejudice to your liability or to our rights under this Agreement or at law.~~

#### 20. PAY ENCUMBRANCES

We or the Receiver may pay any encumbrance that may exist or be threatened against the Collateral. In addition, we or the Receiver may borrow money required for the maintenance, preservation or protection of the Collateral and may grant further security interests in the Collateral in priority to the secured interest created hereby as security for the money so borrowed. In every such case, the amounts so paid or borrowed together with costs, charges, and expenses incurred in connection therewith shall become part of the Obligations, shall bear interest at the highest rate per annum charged by us on the Obligations and shall be secured by this Agreement.

#### 21. PAYMENTS

We shall have the right to appropriate any payment made by you to any of your Obligations as we see and to revoke or alter any such appropriation.

#### 22. DEFINITIONS

In this agreement "you", "your" and "yours" refer to the Customer named above. "We", "our", "our" and "us" refer to CWB Maxium Financial Inc.

#### 23. CONTINUING EFFECTIVENESS

This Agreement shall be a continuing agreement in every respect, securing the payment of the Obligations. If any part of this Agreement is invalid or void, the remaining terms and provisions of the Agreement shall remain in full force and effect.

#### 24. ACKNOWLEDGEMENT & WAIVER

You acknowledge receipt of a copy of this Agreement. You waive any right you may have to receive a copy of any financing statement, verification statement, or similar document we register or that we may receive by way of confirmation of a security registration in respect of this Agreement or any agreement amending, supplementing or replacing it.

#### 25. SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon you, your heirs and your successors and assigns and shall enure to our benefit and to the benefit of our successors and assigns; provide that you shall not assign any of your rights or obligations hereunder without our prior written consent. We may assign our rights under this Agreement without your consent and without providing you notice of such assignment. This Agreement shall continue in full force and effect notwithstanding any change in the composition of or membership of any firm or corporation which is a party hereto.

#### 26. NOTICES

Any notice required to be given under this Agreement may be delivered directly to you or us or may be sent by prepaid registered mail addressed to our address shown above or your address shown below, or such further address as we or you may notify to the other in writing from time to time, and if so given the notice shall be deemed to have been given on the day of delivery or the day when it is deemed or otherwise considered to have been received for the purposes of the PPSA, as the case may be.

#### 27. DISCHARGE

If you pay us all of the Obligations secured by this Agreement and otherwise observe and perform the terms and conditions hereof, then we shall, at your request and expense, release and discharge the security interest created by this Agreement and execute and deliver to you such deeds and other instruments as shall be required to effect any such release and discharge.

#### 28. ENTIRE AGREEMENT

You acknowledge that this is the entire agreement between you and us and there are no other written or oral representations or warranties, which apply to the Collateral or to this Agreement. This Agreement may only be amended by an agreement in writing signed by us.

#### 29. NO MERGER

Neither the taking of any judgment nor the exercise of any power of seizure or sale shall operate to extinguish your liability to make payment of or satisfy the Obligations.

#### 30. FURTHER ASSURANCES

You shall at all times do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered every such further act, deed, conveyance, instrument, transfer, assignment, security agreement and assurance as we may reasonably require in order to give effect to the provisions and purposes of this Agreement.

#### 31. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.

1970636 Ontario Ltd.

BY: Umay Nasim  
Name: UMAIR NASIM  
Title: PRESIDENT

Address: 503 Concession Street, Hamilton, ON L0R 1W0

Security Agreement

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

# TABLE

This is Exhibit "E" referred to in the affidavit  
of DANIEL GILCHRIST, SWORN BEFORE ME  
this 15<sup>th</sup> day of MAY, 2018



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A COMMISSIONER FOR TAKING AFFIDAVITS





IVAN MERROW  
LAWYER

## ServiceOntario

[Main Menu](#) [New Enquiry](#)

## Enquiry Result

File Currency: 13MAY 2018



All Pages ▼


[Show All Pages](#)

Note: All pages have been returned.

Type of Search	Business Debtor								
Search Conducted On	1970636 ONTARIO LTD.								
File Currency	13MAY 2018								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	728007795	1	1	1	3	25MAY 2027			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
728007795		01	003		20170525 1436 1530 0729	P PPSA	10		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	1970636 ONTARIO LTD.								
	Address				City	Province	Postal Code		
	503 CONCESSION STREET				HAMILTON	ON	N0G 1H0		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	CONCESSION WENTWORTH MEDICAL CLINIC								
	Address				City	Province	Postal Code		
	503 CONCESSION STREET				HAMILTON	ON	N0G 1H0		
Secured Party	Secured Party / Lien Claimant								
	CWB MAXIUM FINANCIAL INC.								
	Address				City	Province	Postal Code		
	1 - 30 VOGELL ROAD				RICHMOND HILL	ON	L4B 3K6		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X	X	X			
Motor Vehicle Description	Year	Make			Model		V.I.N.		
General Collateral Description	General Collateral Description								
	A SECURITY INTEREST IS TAKEN IN ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY.								
Registering Agent	Registering Agent								

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	D+H LIMITED PARTNERSHIP			
	Address	City	Province	Postal Code
	SUITE 200, 4126 NORLAND AVENUE	BURNABY	BC	V5G 3S8

## CONTINUED

Type of Search	Business Debtor															
Search Conducted On	1970636 ONTARIO LTD.															
File Currency	13MAY 2018															
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status									
	728007795	1	1	2	3	25MAY 2027										
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN																
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period									
728007795		02	003		20170525 1436 1530 0729											
Individual Debtor	Date of Birth	First Given Name			Initial	Surname										
Business Debtor	Business Debtor Name					Ontario Corporation Number										
	MT. CROSS PHARMACY															
	Address	City			Province	Postal Code										
	503 CONCESSION STREET	HAMILTON			ON	N0G 1H0										
Individual Debtor	Date of Birth	First Given Name			Initial	Surname										
	08FEB1970	UMAIR				NASIM										
Business Debtor	Business Debtor Name					Ontario Corporation Number										
	Address	City			Province	Postal Code										
	27 SPITFIRE DRIVE	MOUNT HOPE			ON	L0R 1W0										
Secured Party	Secured Party / Lien Claimant															
	Address	City			Province	Postal Code										
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date							
Motor Vehicle Description	Year	Make			Model	V.I.N.										
General Collateral Description	General Collateral Description															
Registering Agent	Registering Agent															
	Address	City			Province	Postal Code										

## CONTINUED

Type of Search	Business Debtor						
Search Conducted On	1970636 ONTARIO LTD.						
File Currency	13MAY 2018						

65

File Number	Family	of Families	Page	of Pages	Expiry Date	Status
728007795	1	1	3	3	25MAY 2027	

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN							
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period
728007795		03	003		20170525 1436 1530 0729		

Individual Debtor	Date of Birth	First Given Name	Initial	Surname
	08FEB1970	UAIAR	N	NASIM

Business Debtor	Business Debtor Name	Ontario Corporation Number

Address	City	Province	Postal Code
27 SPITFIRE DRIVE	MOUNT HOPE	ON	L0R 1W0

Individual Debtor	Date of Birth	First Given Name	Initial	Surname
	05DEC1968	SHRIKANT		MALHOTRA

Business Debtor	Business Debtor Name	Ontario Corporation Number

Address	City	Province	Postal Code
5633 RETREAT STREET	MISSISSAUGA	ON	L5R 0B3

Secured Party	Secured Party / Lien Claimant

Address	City	Province	Postal Code

Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date

Motor Vehicle Description	Year	Make	Model	V.I.N.

General Collateral Description	General Collateral Description





Registering Agent	Registering Agent

Address	City	Province	Postal Code

LAST PAGE

Note: All pages have been returned.

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5/14/2018

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TAB F

This is Exhibit "F" referred to in the affidavit  
of DANIEL GILCHRIST, SWORN BEFORE ME  
this 15<sup>th</sup> day of MAY, 2018



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A COMMISSIONER FOR TAKING AFFIDAVITS

IVAN MERROW  
LAWYER

1. CUSTOMER GUARANTEED

The name of the customer whose obligations you are guaranteeing is:

1970636 Ontario Ltd.

(who, together with the Customer's successors, heirs and assigns, shall be referred to herein as the "Customer").

2. OBLIGATIONS GUARANTEED

In consideration of CWB Maxium Financial Inc. (referred to as "we", "our", "ours" and "us" in this Guarantee) dealing with or continuing to deal with the Customer, you guarantee payment to us on demand, of all present and future lease payments and obligations, conditional sale instalments and obligations, and any other debts and liabilities (collectively, the "Obligations"), both direct and indirect, (whether incurred alone or jointly with others, whether absolute or contingent, whether matured or not matured, and whether for principal, interest or fees) payable to us by the Customer under any and all lease agreements, conditional sale contracts, credit facilities, overdrafts, guarantees, letters of credit, indemnities together with all costs and expenses, including legal fees and expenses, incurred by us in connection with its dealings with the Customer. You agree to be bound by each of the terms and conditions set out below.

3. THE NATURE OF YOUR LIABILITY

Your liability under this Guarantee is CONTINUING, absolute and unconditional. It will not be limited, reduced, or otherwise affected by any one or more of the following events:

- the unenforceability of the Obligations, any security, or any of our other rights against the Customer or any other person
- any change in the terms or amount or existence of the Obligations
- the extension of time for payment to the Customer or the granting of any indulgence or concession to the Customer or any other person
- the taking or not taking of a guarantee from any other person
- not taking, perfecting, registering, or renewing any security
- accepting settlement from, or granting releases or discharges to, the Customer or any other person, including another guarantor
- any delay or default by us in the exercise of any right or remedy against you or the Customer
- your liability under any other guarantee
- the reorganization of the Customer's business (whether by amalgamation, merger, transfer, sale or otherwise)
- any change in the Customer's financial condition
- any change in control of the Customer (if the Customer is a corporation)
- a dissolution or change in membership of the Customer (if the Customer is a partnership)
- the bankruptcy of the Customer or any proceedings commenced by the Customer under the *Bankruptcy and Insolvency Act* or the *Companies Creditors Arrangement Act* or successor legislation
- our failure to abide by agreements relating to the Obligations
- a breach of any duty of ours (whether fiduciary or in negligence or otherwise) and whether owed to you, the Customer, or any other person
- incapacity, or lack of status or legal existence of the Customer
- the Customer's account being closed or our ceasing to deal with the Customer
- any irregularity, fraud, defect or lack of authority or formality in incurring the Obligation
- not providing our claim in a bankruptcy of the Customer or not proving our claim in full
- any event whatsoever that might be a defence available to the Customer for its obligation or a defence to you under this Guarantee, all of which are hereby waived

4. CWB MAXIMUM NOT LIABLE

We do not owe you any duty (as a fiduciary or otherwise) and you hereby waive any right to make any claim or counterclaim and to raise any right of set off, equitable or otherwise, arising from any alleged breach of a duty owed to you, or the Customer or any other person. We will not be liable to you nor shall you make any claim for any negligence or any breaches or omissions on our part, or any of our employees, officers, directors or agents, or any receivers appointed by us, in the course of any of our actions or their actions.

5. TERMINATING FURTHER LIABILITY

You may cancel this Guarantee for any future Obligations by providing us with express written notice of any such cancellation. You will, however, continue to be liable under this Guarantee for any of the Obligations that the Customer incurs up to and including the day after we receive your notice and for Obligations arising out of agreements made prior to the receipt of your notice.

6. NO SETOFF OR COUNTERCLAIM

You will make all payments required to be made under this Guarantee without regard to any right of setoff or counterclaim that you have or may have against us or the Customer, which rights you waive. In addition to any rights now or hereafter granted under applicable law, and not by way of limitation of any such rights, we are authorized upon any amounts being payable by you to us hereunder, without notice, any such notice being expressly waived by you, to setoff, appropriate and apply any and all deposits and any other indebtedness at any time held by us, or owing to you, against and on account of the Obligations.

7. REINSTATEMENT

This Guarantee and all other terms of this agreement shall continue to be effective or shall be reinstated, as the case may be, if at any time any payment (in whole or in part) of any of the Obligations is rescinded or must otherwise be returned or restored by us by reason of the insolvency, bankruptcy or reorganization of the Customer or for any other reason not involving our wilful misconduct, all as though such payment had not been made.

8. APPLICATION OF MONEYS RECEIVED

We may, without notice, apply all moneys received from you, or the Customer or any other person (including under any security that we may from time to time hold) to such part of the Obligations as we, in our absolute discretion, consider appropriate. We may also revoke and alter any such application.

9. EXHAUSTING RECOURSE

We do not need to exhaust our recourse against the Customer or any other person or under any security interest we may from time to time hold before being entitled to full payment from you under this Guarantee. You waive all benefits of discussion and division.

10. INDEMNITY

As an original and independent obligation under this Guarantee, you shall (a) indemnify us and keep us indemnified against any cost, loss, expense or liability of whatever kind resulting from the failure by the Customer to make due and punctual payment of any of the Obligations or resulting from any of the Obligations being or becoming void, voidable, unenforceable or ineffective against the Customer (including, without limitation, all legal and other costs, charges and expenses incurred by us in connection with preserving or enforcing, or attempting to preserve or enforce, our rights under this Guarantee), and (b) pay on demand the amount of such cost, loss, expense or liability whether or not we have attempted to enforce any rights against the Customer, any other guarantor, or any other person.

11. POSTPONED SUBROGATION

Until the Obligations have been paid in full, you will not make any claim for repayment or contribution from the Customer or any guarantor, for any payment that you make under this Guarantee. Until all the Obligations are paid in full, we may include in our claim in the bankruptcy of the Customer the amount paid by you under this Guarantee and receive dividends in respect of that claim because you assign to us your right to prove your claim and receive dividends.

12. COSTS AND EXPENSES

You agree to pay all costs and expenses, including legal fees, of enforcing this Guarantee including the charges and expenses of our in-house lawyers. You will pay the legal fees on a solicitor and own client basis.

13. ASSIGNMENT AND POSTPONEMENT OF CLAIMS

You postpone the repayment of all present and future debts and liabilities that the Customer owes to you to the prior payment to us of the Obligations. You assign to us all such debts and liabilities, until the Obligations are repaid in full. If you receive any moneys in payment of any of such debts and liabilities, you will hold them in trust for, and will immediately pay them to, us without reducing your liability under this Guarantee.

14. CONSENT TO DISCLOSE INFORMATION

We may from time to time give any credit or other information about you to, or receive such information from, any credit bureau, reporting agency or other person.

15. ASSIGNMENT OF OBLIGATIONS

We may, without notice, sell or assign the Obligations and in such case, our assignee may enforce this Guarantee and we may enforce this Guarantee for any part of the Obligations not sold or assigned.

16. GOVERNING LAW

This Guarantee shall be construed in accordance with the laws of the province where the Customer's account is held and you irrevocably submit to the exclusive jurisdiction of the courts of that province.

17. GENERAL

Any provision of this Guarantee that is void or unenforceable in a jurisdiction is, as to that jurisdiction, ineffective to that extent without invalidating the remaining provisions. If two or more persons sign this Guarantee, each person's liability will be joint and several. This Guarantee is in addition and without prejudice to any security of any kind now or in the future held by us. There are no representations, collateral agreements, warranties, or conditions with respect to, or affecting your liability under this Guarantee other than as contained in this Guarantee. No alteration or waiver of this Guarantee or any of its terms or conditions shall be binding on us unless expressly made in writing by us. Our written statement of the amount of the Obligations shall be conclusive and binding on you. You expressly waive notice of the existence or creation of all or any of the Obligations, presentment, demand, notice of dishonor, protest and all other notices whatsoever.

18. FURTHER ASSURANCES

You shall do, execute and deliver or shall cause to be done, executed and delivered all such further acts, documents and things as we may reasonably request for the purpose of giving effect to this Guarantee.

19. DEFINITIONS

In this Guarantee "you" "your" and "yours" refer to the guarantor named below.

Dated this 5<sup>th</sup> day of June 2017

IN WITNESS WHEREOF:

BY:

Name:

Guarantee

BY:

Umair Nasim