

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**ROYAL BANK OF CANADA**

Plaintiff

and

**2668144 ONTARIO INC., ASMINUR RAHAMAN and SHAKIVE RAHAMAN**

Defendants

**MOTION RECORD**

(Motion for an Order appointing a Receiver

Hearing Date: August 4, 2023 at 12:00 p.m., Via Video Conference)

July 10, 2023

**MINDEN GROSS LLP**  
Barristers and Solicitors  
2200 - 145 King Street West  
Toronto ON M5H 4G2

**Rachel Moses** (LSO# 42081V)  
rmoses@mindengross.com  
Tel: 416-369-4115

Lawyers for the Plaintiff,  
Royal Bank of Canada

TO:  
**SERVICE LIST**

## SERVICE LIST

(re: Motion to appoint Receiver, returnable on August 4, 2023)

NO.	NAME	METHOD OF SERVICE
1.	<b>2668144 ONTARIO INC.</b> 989 Ward Street Bridgenorth, ON K0L 1H	<b>DELIVERED PERSONALLY AND BY E-MAIL TO:</b> <a href="mailto:bridgenorth989@gmail.com">bridgenorth989@gmail.com</a>
2.	<b>ASMINUR RAHAMAN</b> 104 Veterans Drive Brampton, ON L7A 3Z7	<b>DELIVERED PERSONALLY AND BY E-MAIL TO:</b> <a href="mailto:bridgenorth989@gmail.com">bridgenorth989@gmail.com</a>
3.	<b>SHAKIVE RAHAMAN</b> 104 Veterans Drive Brampton, ON L7A 3Z7	<b>DELIVERED PERSONALLY AND BY E-MAIL TO:</b> <a href="mailto:bridgenorth989@gmail.com">bridgenorth989@gmail.com</a>
4.	<b>MSI SPERGEL INC.</b> 505 Consumers Road, Suite 200, Toronto ON M2J 4V8  <b>Mukul Manchanda</b> Tel: (416) 498-4314 E-Mail: <a href="mailto:mmanchanda@spergel.ca">mmanchanda@spergel.ca</a>  Proposed Receiver	<b>BY E-MAIL TO:</b> <a href="mailto:mmanchanda@spergel.ca">mmanchanda@spergel.ca</a>
5.	<b>HARRISON PENZA LLP</b> 130 Dufferin Avenue, Suite 1101 London ON N6A 5R2  <b>Tim Hogan</b> Tel: (519) 661-6743 E-Mail: <a href="mailto:thogan@harrisonpensa.com">thogan@harrisonpensa.com</a>  Lawyers for the Proposed Receiver Lawyers for the Receiver	<b>BY E-MAIL TO:</b> <a href="mailto:thogan@harrisonpensa.com">thogan@harrisonpensa.com</a>

NO.	NAME	METHOD OF SERVICE
6. T	<p><b>HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO</b> as represented by Ministry of Finance Legal Services Branch 77 Bay Street, 11th Floor Toronto ON M5G 2C8</p> <p><b>Attention: Anthony R. Golding</b> Senior Counsel, Ministry of Finance Tel: (416) 938-5069 E-Mail: <a href="mailto:anthony.golding@ontario.ca">anthony.golding@ontario.ca</a></p>	<p><b>BY E-MAIL TO:</b> <a href="mailto:anthony.golding@ontario.ca">anthony.golding@ontario.ca</a></p>
7.	<p><b>CANADA REVENUE AGENCY</b> c/o Department of Justice Ontario Regional Office The Exchange Tower, Box 36 130 King Street West, Suite 3400 Toronto ON M5X 1K6</p> <p><b>Attention: Diane Winters</b> Tel: (416) 952-8563 E-Mail: <a href="mailto:diane.winters@justice.gc.ca">diane.winters@justice.gc.ca</a></p>	<p><b>BY E-MAIL TO:</b> <a href="mailto:diane.winters@justice.gc.ca">diane.winters@justice.gc.ca</a></p>
8.	<p><b>INSOLVENCY UNIT</b> Province of Ontario E-Mail: <a href="mailto:insolvency.unit@ontario.ca">insolvency.unit@ontario.ca</a></p>	<p><b>BY E-MAIL TO:</b> <a href="mailto:insolvency.unit@ontario.ca">insolvency.unit@ontario.ca</a></p>
9.	<p><b>THE BANK OF NOVA SCOTIA</b> 40 King Street West, 8<sup>th</sup> Floor Toronto ON M5H 1H1</p> <p><b>Attention: Lisa Alleyne</b> Senior Legal Counsel E-Mail: <a href="mailto:lisa.alleyne@scotiabank.com">lisa.alleyne@scotiabank.com</a></p>	<p><b>BY E-MAIL TO:</b> <a href="mailto:lisa.alleyne@scotiabank.com">lisa.alleyne@scotiabank.com</a></p>
10.	<p><b>TOWNSHIP OF SELWYN</b> Taxation Division – Tax Certificates 1310 Centre Line Selwyn ON K9J 6X5</p>	<p><b>BY COURIER</b></p>

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Court File No. CV-23-00702043-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

**ROYAL BANK OF CANADA**

Plaintiff

and

**2668144 ONTARIO INC., ASMINUR RAHAMAN and SHAKIVE RAHAMAN**

Defendants

**NOTICE OF MOTION**

(Motion for an Order appointing a Receiver

Hearing Date: Friday, August 4, 2023 at 12:00 p.m., via Video Conference)

Royal Bank of Canada ("**RBC**"), will make a motion to a Judge presiding over the Commercial List on Friday, August 4, 2023 at 12:00 p.m., or as soon after that time as the motion can be heard by way of Zoom video conference.

**PROPOSED METHOD OF HEARING:** The Motion is to be heard (*choose appropriate option*)

In writing under subrule 37.12.1(1) because it is without notice;

In writing as an opposed motion under subrule 37.12.1(4);

In person;

By telephone conference;

[ X ] By video conference.

at the following location: 330 University Avenue, Toronto, Ontario.

**THE MOTION IS FOR:**

1. An Order:

- (a) appointing msi Spergel inc. as receiver without security over all of the assets, undertakings and property of the defendant, 2668144 Ontario Inc. (the “**Debtor**”) and all other property, assets, and undertakings related thereto pursuant to section 243 of the Bankruptcy and Insolvency Act (“**BIA**”) and section 101 of the Courts of Justice Act; and
- (b) such further and other relief as counsel may advise and this Honourable Court may permit.

**THE GROUNDS FOR THE MOTION ARE:**

- 1. The Debtor is a customer of RBC and is indebted to RBC.
- 2. The Debtor operates an Esso Gas station at 989 Ward Street, Bridgenorth, Ontario (the “**Bridgenorth Property**”).
- 3. In or about March, 2022, the accounts of the Debtor were transferred to RBC’s Special Loans & Advisory Services Group based on, among other things, the following concerns: (i) cash flow difficulties, (ii) late financial reporting, (iii) realty tax arrears in connection with the Bridgenorth Property, and (iv) potential litigation in connection with Vendor-Take-Back financing in connection with the Bridgenorth Property.

4. In May, 2022, RBC issued a non-tolerance and reservation of rights letter to the Debtor advising of various breaches under the credit agreement.
5. RBC issued payment demands and section 244 notices of intention to enforce security under the BIA (the "**Section 244 Notice**") against the Debtor.
6. Payment demands and the Section 244 Notice have expired.
7. The indebtedness remains outstanding.
8. The Debtor executed a consent to receivership under the forbearance agreement.
9. RBC has provided the Debtor with more than sufficient time to repay the indebtedness. The Debtor has been unable to fulfil its contractual obligations to RBC.
10. RBC has lost confidence in the Debtor.
11. At this stage, RBC wishes to take any and all steps necessary to enforce its security and realize on same.
12. RBC considers it reasonable and prudent for it to begin enforcement of its security in an effort to recover the outstanding indebtedness.
13. The appointment of a receiver is provided for in the security delivered to RBC by the Debtor, including under a general security agreement and charge/mortgage.
14. RBC proposes that msi Spergel inc. be appointed as receiver of the Debtor.
15. msi Spergel inc. has consented to act as receiver should the Court so appoint it.



16. The other grounds set out in the affidavit of Michael Foster.
17. Section 243(1) of the *Bankruptcy and Insolvency Act*.
18. Section 101 of the *Courts of Justice Act*.
19. Rules 1.04, 1.05, 2.01, 2.03, 3.02 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended.
20. 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 Michael Foster sworn June 30, 2023 and the Exhibits thereto;
- (b) Consent of the Receiver;
- (c) Such further and other evidence as counsel may advise and this Honourable Court may permit.

Date: July 10, 2023

**MINDEN GROSS** LLP  
Barristers and Solicitors  
2200 - 145 King Street West  
Toronto, ON M5H 4G2

**Rachel Moses** (LSO#42081V)  
rmoses@mindengross.com  
Tel: 416-369-4115

Lawyers for the Plaintiff

TO: **SERVICE LIST**

#57928414127965 v1

B E T W E E N

ROYAL BANK OF CANADA  
Plaintiff

-and-

2668144 ONTARIO INC., et al.  
Defendants  
Court File No. CV-23-00702043-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**NOTICE OF MOTION**

**MINDEN GROSS LLP**  
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Lawyers for the Plaintiff,  
Royal Bank of Canada

(File No. 4127965)

Court File No. CV-23-00702043-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

**ROYAL BANK OF CANADA**

Plaintiff

and

**2668144 ONTARIO INC., ASMINUR RAHAMAN and SHAKIVE RAHAMAN**

Defendants

**AFFIDAVIT OF MICHAEL FOSTER  
(sworn June 30, 2023)**

I, **MICHAEL FOSTER**, of the City of Ottawa, in the Province of Ontario,

**MAKE OATH AND SAY:**

1. I am a Senior Manager of the Special Loans & Advisory Services Group of Royal Bank of Canada ("**RBC**"), with carriage of the RBC accounts of the defendant, 2668144 Ontario Inc. ("**Debtor**"). As such, I have knowledge of the matters to which I hereinafter depose.

2. Where the information in this affidavit is based upon information and belief, I have indicated the source of my information and belief and do verily believe it to be true.

3. To the extent that any of the information set out in this affidavit is based on my review of RBC's documents, I verily believe the information in such documents to be true.

### **Background**

4. I am swearing this affidavit in support of a motion by RBC seeking to appoint msi Spergel inc. as receiver over the assets, undertakings and properties of the Debtor pursuant to section 243 of the Bankruptcy and Insolvency Act ("**BIA**") and section 101 of the Courts of Justice Act.

5. On April 10, 2023, RBC issued to the Debtor a Notice of Intention to Enforce Security pursuant to section 244 of the BIA (the "**Section 244 Notice**"), together with payment demands.

6. Payment demands were also issued to the guarantors, Asminur Rahaman ("**Asminur**") and Shakive Rahaman ("**Shakive**").

7. Payment demands and the Section 244 Notice have expired and the indebtedness remains outstanding.

8. Subsequently, the parties entered into a forbearance agreement dated June 6, 2023 ("**Forbearance Agreement**") and delivered to RBC a consent to receivership and consent to judgment. However, the Debtor failed to pay the entire amount of \$27,453.36 due and owing under the Forbearance Agreement.

## **The Parties**

9. The Debtor is incorporated pursuant to the laws of Ontario, with its registered head office address at 989 Ward St, Bridgenorth, Ontario (the “**Bridgenorth Property**”). The Debtor operates an Esso Gas station at the Bridgenorth Property. Attached as **Exhibit “A”** is a copy of the Corporate Profile Report for the Debtor dated April 8, 2023.

10. The Corporate Profile Report indicates Asminur and Shakive are the two the directors of the Debtor. No officers are listed. Asminur and Shakive personally guaranteed the debts of the Debtor to RBC.

## **Credit Agreement and Security**

11. The Debtor is indebted to RBC in connection with i) a fixed rate term loan (non-revolving) in the amount of \$1,273,852.04 (the “**Term Facility**”), ii) a revolving demand facility in the amount of \$65,000.00 (the “**Operating Facility**”) and iii) a \$15,000.00 credit card facility (the “**Visa Facility**”) made available by RBC to the Debtor pursuant to a credit facilities letter agreement dated June 22, 2021, which agreement together with Royal Bank of Canada Credit Agreement - Standard Terms and Visa Agreement are collectively the “**Credit Agreement**”. A copy of the Credit Agreement is attached as **Exhibit “B”**.

12. The Debtor is further indebted to RBC in connection with a non-revolving term facility in the amount of \$100,000.00 under the Highly Affected Sectors Credit

Availability Program (the “**HASCAP Loan**”) made available by RBC to the Debtor pursuant to a credit facilities agreement dated January 24, 2022. (“**HASCAP Credit Agreement**”). A copy of the HASCAP Credit Agreement is attached as **Exhibit “C”**.

13. Pursuant to the “Repayment” section of the Credit Agreement, the Debtor agreed to repay the Operating Facility on demand.

14. Pursuant to the “Reporting Requirements” section of the Credit Agreement, 266 agreed to provide the following to RBC:

- a) annual review engagement financial statements for the Debtor, within 90 days of each fiscal year end;
- b) annual personal statement of affairs for all Guarantors, who are individuals, within 90 days of the end of every fiscal year of the Debtor, commencing with the fiscal year ending in 2022;
- c) such other financial and operating statements and reports as and when the Bank may reasonably require.

15. Pursuant to the “General Covenants” section of the Credit Agreement, the Debtor agreed with RBC that it would, among other things, pay all sums of money when due under the terms of the Credit Agreement.

16. Pursuant to the “Events of Default” section of the Credit Agreement, the following events, among others, constitute an “Event of Default” entitling RBC, in its sole

discretion, to realize on all or any portion of any Security (as defined in the Credit Agreement):

- a) failure of the Debtor to pay any principal, interest or other amount when due pursuant to the Credit Agreement; and
- b) failure of the Debtor, or any Guarantor if applicable, to observe any covenant, term or condition contained in the Credit Agreement, the Security, or any other agreement delivered to RBC or in any documentation relating hereto or thereto.

17. As security for the Credit Facilities, the Debtor granted RBC a general security agreement on the Bank's Standard Form 924 signed by the Debtor on February 11, 2019 (the "**GSA**"), registration in respect of which was duly made pursuant to the Personal Property Security Act (Ontario) (the "**PPSA**").

18. Pursuant to section 11(a) "Events of Default" of the GSA, failure by the Debtor to pay when due any principal or interest forming part of the indebtedness or the Debtor's failure to observe or perform any obligation, covenant, term, provision or condition contained in the GSA or any other agreement between the Debtor and RBC constitutes default under the GSA.

19. Pursuant to section 13(a) "Remedies" of the GSA, upon default, RBC is entitled to appoint a receiver. Attached as **Exhibit "D"** is a copy of the GSA.

20. As further security for the Credit Facilities, the Debtor granted a Charge/Mortgage to RBC as Instrument No. PE306608 on March 5, 2019, in the principal amount of \$1,445,000.00 in connection with the Bridgenorth Property, including Standard Charge Terms 20015. Copies of the Charge/Mortgage, RBC Standard Charge Terms 20015 (collectively the “**Mortgage Security**”) are attached as **Exhibit “E”**.

21. Pursuant to section 42 “Receivership” of the Mortgage Security, upon default, RBC is entitled to appoint a receiver.

22. As further security for the Credit Facilities, Asminur and Shakive, jointly and severally, provided RBC with a guarantee and postponement of claim dated February 11, 2019, limited to the principal sum of \$1,445,000.00. Attached as **Exhibit “F”** is a copy of the guarantee and postponement of claim.

### **Secured Creditors**

23. Attached as **Exhibit “G”** is a copy of the certified PPSA search result for the Debtor with currency to April 7, 2022. The PPSA search results for the Debtor indicates that RBC is the first registrant. The Bank of Nova has a registration in respect of a motor vehicle.

24. The parcel register for the Bridgenorth Property, effective June 23, 2023, indicates i) the Debtor as the owner as of March 5, 2019 and ii) RBC as first mortgagee.



25. A realty tax certificate for the Bridgenorth Property, effective June 27, 2023, indicates arrears owing, as follows: i) tax year 2022 in the amount of \$10,931.20, ii) tax year 2021 in the amount of \$10,811.11, and iii) tax years 2020 and prior in the amount of \$2,386.80. Further, instalment payments for 2023-03-06 and 2023-05-01 each in the amount of \$2,842 remain outstanding. Attached as **Exhibit “H”** are copies of the parcel register and realty tax certificate in connection with the Bridgenorth Property.

### **RBC’s Concerns and Transfer to SLAS**

26. In or about March, 2022, the Debtor’s accounts were transferred to RBC’s Special Loans & Advisory Services Group (“**SLAS**”) due to, among other things, defaults under the Credit Agreement. By letter dated April 4, 2022, RBC advised the Debtor of the transfer to SLAS based on:

- Cash flow difficulties
- Late financial reporting
- Debtor’s inability to meet certain covenants and conditions under the Credit Agreement, i.e., debt servicing and postponement of shareholders’ loans
- Realty tax arrears in connection with the London Property

- Potential litigation on Vendor-Take-Back financing in connection with the London Property

27. Attached as **Exhibit “I”** is a copy of the transition letter sent to the Debtor.

28. In April, 2022, I made various requests to the Debtor to provide certain information in connection with priority payables. Despite my requests, the information was not provided by the Debtors.

29. Accordingly, on May 16, 2022, RBC, through its lawyers, issued a non-tolerance and reservation of rights letter (the “**Non-Tolerance and Reservation of Rights Letter**”) to the Debtor advising of the Reporting Default (as defined therein). RBC required the Debtor to remedy the Reporting Default by June 1, 2022. A copy of the Non-Tolerance and Reservation of Rights Letter is attached as **Exhibit “J”**.

30. The Debtor failed to remedy the Reporting Default to the satisfaction of RBC by June 1, 2022.

31. On October 20, 2022, RBC notified the Debtor that the Term Facility would not be renewed on maturity (March 21, 2023) and strongly advised the Debtor to make arrangements with another lender to repay the Term Facility (the “**Non-Renewal Letter**”). A copy of the Non-Renewal Letter is attached as **Exhibit “K”**.

32. Under the Non-Renewal Letter, RBC provided the Debtor with five months’ notice of its decision not to renew the Term Facility.

33. By email sent on November 27, 2022, the Debtor requested that RBC renew the Term Facility for another year. I replied to the Debtor advising that RBC would not renew the Term Facility and arrangements must be made to repay the indebtedness due on maturity. A copy of our email exchange on November 27 and 28, 2022 is attached as **Exhibit "L"**.

34. On December 5, 2022, I confirmed in an email to the Debtor that RBC was not prepared to continue the banking relationship and that the Term Facility had to be repaid on maturity. A copy of my email exchange with the Debtor is attached as **Exhibit "M"**.

35. Despite the Non-Renewal Letter and my emails of November 28, 2022 and December 5, 2022, the Debtor again asked that RBC renew the Term Facility by email sent on March 2, 2023. By email sent on March 7, 2023, RBC through its lawyers advised the Debtor that RBC would not renew the Term Facility and all indebtedness must be repaid on or before March 21, 2023. Copies of the email exchanges sent on March 2 and 7, 2023, are attached as **Exhibit "N"**.

36. The Debtor failed to repay the Term Facility when it matured on March 21, 2023.

37. As a result, on April 10, 2023, RBC's lawyers herein, Minden Gross LLP, issued payment demands and related Section 244 Notice on behalf of RBC to the Debtor. Payment demands were also issued to Asminur and Shakive as guarantors.

Attached as **Exhibit “O”** are copies of the payment demands with related Section 244 Notice.

38. Immediately after the payment demands and Section 244 Notice, the Debtor advised “I’m doing refinancing for another bank give me some time I’m working on it. Environment report is done and the appraisal is under process, appraisal inspection is done, appraisal report is awaited, refinancing process will take some more time. Please allow us more time and do not start the recovery process.” A copy of the Debtor’s email sent on April 10, 2023 is attached as **Exhibit “P”**.

39. In response to the Debtor’s request for “more time” to repay the indebtedness, RBC agreed to enter into a forbearance agreement with the Debtor, Asminur and Shakive (the Debtor, Asminur and Shakive are collectively the “**Credit Parties**”) on terms acceptable to RBC. This was subsequently confirmed in an email exchange between RBC’s lawyers and Craig Lewis of RZCD Law Firm LLP, the lawyer for the Credit Parties. A copy of Mr. Lewis’ email sent on May 5, 2023 is attached as **Exhibit “Q”**.

40. On May 11, 2023, Ms. Moses provided the forbearance agreement to Mr. Lewis with a sign-back deadline of May 16, 2023. Under the forbearance agreement, RBC agreed to forbear until July 25, 2023 (four months since maturity of the Term Facility). By reply email, Mr. Lewis requested that RBC extend the forbearance to May 2024 (more than one year since maturity). The Credit Parties’ request for a one year

forbearance was unacceptable to RBC. By email sent on May 11, 2023, Ms. Moses advised:

“The Bank is not prepared to grant any additional time, beyond July 25, 2023, for the matured Term Facility to be repaid by the Borrower. As you are aware, on May 16, 2022, the Bank sent a default letter to the Borrower in connection with the Borrower’s failure to provide certain information regarding potential arrears in HST remittances and source deductions in accordance with the Reporting Requirements established under the Credit Agreement.

On October 20, 2022, the Bank advised the Borrower that upon maturity in March 2023, the Term Facility would not be renewed and strongly advised the Borrower to make arrangements with another lender to repay the Term Facility. The Borrower asked the Bank for extensions and the Bank repeated its position that all indebtedness must be repaid on maturity as the Term Facility would not be renewed. The Borrower failed to repay the indebtedness on maturity.

The Bank has been fair and reasonable in its actions and has provided your client with ample notice of its position. Please advise if your clients will execute the forbearance agreement and appropriate schedules.

In the interim, the Bank reserves all of its rights and remedies.”

41. As indicated above, the sign-back deadline under the proposed forbearance agreement expired on May 16, 2023. On May 16, 2023, Mr. Lewis confirmed that the Credit Parties “will be signing the Forbearance Agreement. We have asked that he send it to us today but it may not get to you until tomorrow.” Copies of the email exchanges sent on May 11 and 16, 2023 are attached as **Exhibit “R”**.

42. Despite Mr. Lewis confirmation, the Credit Parties failed or refused to sign the proposed forbearance agreement. By email sent on May 18, 2023, Mr. Lewis requested that RBC renew the matured Term Facility for either a one or two year period

to give the Debtor time to market and sell the Bridgenorth Property. The decision to sell the Bridgenorth Property was new information since in prior communications the Debtor advised that it was seeking to refinance with another lender. RBC requested information with respect to the proposed listing of the Bridgenorth Property. A copy of Mr. Lewis' email sent on May 18, 2023 is attached as **Exhibit "S"**.

43. After further consideration, RBC agreed to revise the proposed forbearance agreement to allow the Debtor time to sell the Bridgenorth Property but on strict terms acceptable to RBC. A key term required that the Debtor pay the amount of \$27,453.36 which comprised the bi-weekly payment of \$4,575.56 owing under the Term Facility since maturity (the "**Term Facility Payment**"). In other words, during the forbearance period, the Debtor is required to continue to make all bi-weekly and/or monthly payments required under the Credit Agreement and keep the Credit Facilities in good standing.

44. The sign-back deadline was extended to June 12, 2023 and the forbearance period was extended to October 31, 2023.

45. The sign-back deadline expired and the Credit Parties did not sign the proposed forbearance agreement. After the expiry of the sign-back deadline, Mr. Lewis on behalf of the Credit Parties asked for an extension of the forbearance agreement to December 31, 2023 and represented "[i]f that extension was granted, I guarantee you that there would be no problem in signing the revised forbearance agreement with that date."

46. RBC was not prepared to further extend the forbearance period. By email sent on June 13, 2023, Ms. Moses advised:

“With all due respect, your clients are in default under the Credit Agreement and Security and the Bank has been more than reasonable in providing them with notice of i) requirement to repay on maturity (about 3 months ago) and ii) time under the proposed forbearance agreement to repay the indebtedness. The request for further time to December 31, 2023 is unreasonable and unacceptable to the Bank. Specifically:

- On May 16, 2022, a default letter was issued by the Bank to the Borrower in connection with priority payables.
- On October 20, 2022, the Bank advised the Borrower that upon maturity in March 2023, the Term Facility would not be renewed and strongly advised the Borrower to make arrangements with another lender to repay the Term Facility.
- The Borrower failed to repay the Term Facility upon maturity even though the Bank advised five months earlier that it would not renew the Term Facility.
- On April 10, 2023, the Bank made demand on the Borrower and Guarantors for repayment of the Indebtedness and issued to the Borrower an NOI Notice. Demands expired two months ago and the indebtedness has not been repaid.

The Bank is entitled to appoint a Receiver over the assets, undertakings and properties of the Borrower and realize on its security. Your clients have been provided with ample time to consider the terms of the forbearance agreement which they initially agreed to and then sought changes which were accommodated by the Bank. Please be advised that the Bank is prepared to extend the **sign back deadline to noon on Friday, June 16, 2023** but no other changes will be accepted. If your clients do not sign the forbearance agreement, the Bank will be considering enforcement of its rights and remedies.

The Bank reserves all of its rights and remedies.”

47. Copies of the email exchanges sent on June 7, 12 and 13, 2023 are attached as **Exhibit “T”**.

48. By email sent on June 15, 2023, Mr. Lewis advised that the Credit Parties are in the process of signing the proposed forbearance agreement and would return it before the expiry of the sign-back deadline. Mr. Lewis further confirmed that the Debtor would make the Term Facility Payment.

49. The Credit Parties delivered the signed forbearance agreement to RBC, with signed consent to receivership and consent to judgment on June 15, 2023. However, the Term Facility Payment was not made as required. Copies of the email communications sent on June 15 and 16, 2023, including signed forbearance agreement and consent to receivership and consent to judgment are attached as **Exhibit “U”**.

50. I am advised by Ms. Moses and believe that on June 16, 2023, numerous communications were exchanged between her and Shakive in regards to the Term Facility Payment. I am further advised by Ms. Moses and believe that Shakive advised Ms. Moses that he would make the Term Facility Payment on June 16, 2023.

51. I am advised by Ms. Moses and believe that despite Shakive's representations, a payment of \$5,000 was made on June 16, 2023.

52. By emails sent on June 19, 2023, Ms. Moses advised Mr. Lewis that the Term Facility Payment must be made before noon, failing which RBC would be enforcing its rights and remedies, including enforcing the consent to receivership and consent to judgment. In response, Mr. Lewis requested RBC's patience as the Credit Parties were “attempting to access the funds and wire them”. Copies of the email



communications between Ms. Moses and Mr. Craig sent on June 19, 2023 are attached as **Exhibit “V”**.

53. As of the date of swearing my Affidavit, the Credit Parties have not made the Term Facility Payment. There has been no further communication from Mr. Lewis or the Credit Parties.

54. The Term Facility matured three months ago. RBC’s demands expired more than two months ago.

55. The indebtedness owing by the Debtors to RBC remains outstanding.

**Appointment of Receiver**

56. Section 11(a) of the GSA provides that failure to perform any obligation or covenant contained in the GSA or any other agreement between the Debtor and RBC constitutes a default.

57. Section 13(a) of the GSA provides for the appointment of a receiver upon default.

58. Section 42 of the Mortgage Security provides for the appointment of a receiver upon default.

59. RBC has provided the Debtor with more than sufficient time to repay the indebtedness.

60. RBC has lost confidence in the Credit Parties as they have failed to

comply with their obligations under the Credit Agreement and security documents, and the Forbearance Agreement.


61. RBC is entitled to take any and all steps necessary to enforce its security and realize on same. The Credit Parties have consented to a receiver being appointed under the GSA, the Mortgage Security and the Consent to Appoint delivered to RBC under the Forbearance Agreement.

62. RBC considers it reasonable and prudent for it to begin enforcement of its security in an effort to recover the outstanding indebtedness.

63. msi Spergel inc. has consented to act as receiver over the Debtor. A copy of the Consent is attached as **Exhibit "W"**.

64. This affidavit is sworn in support of RBC's motion for an Order to appoint msi Spergel inc. as receiver over the Debtor, and for no other or improper purpose.

**SWORN** by Michael Foster of the City of Ottawa, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on June 30, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

  
Rachel Moses (Jul 4, 2023 07:40 EDT)

Commissioner for Taking Affidavits  
(or as may be)  
Rachel Moses / LSO#42081V



**MICHAEL FOSTER**

B E T W E E N

ROYAL BANK OF CANADA  
Plaintiff

-and-

2668144 ONTARIO INC. et al  
Defendants  
Court File No. CV-23-00702043-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**AFFIDAVIT OF MICHAEL FOSTER**

**MINDEN GROSS LLP**  
Barristers and Solicitors  
2200 - 145 King Street West  
Toronto, ON M5H 4G2


**Rachel Moses** (LSO#42081V)  
rmoses@mindengross.com  
Tel: 416-369-4115

Lawyers for the Plaintiff

(File No. 4127965)

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This is Exhibit "A" referred to  
in the Affidavit of Michael Foster  
Sworn this 30th  
day of June, 2023.

  
Rachel Moses (Jul 4, 2023 08:10 EDT)

.....  
A Commissioner for Taking Affidavits

Rachel Moses / LSO# 42081V

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Ministry of Government and  
Consumer Services

## Profile Report

2668144 ONTARIO INC. as of April 08, 2022

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	2668144 ONTARIO INC.
Ontario Corporation Number (OCN)	2668144
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Incorporation	November 29, 2018
Registered or Head Office Address	989 Ward St, Bridgenorth, Ontario, Canada, K0L 1H0

Certified a true copy of the record of the Ministry of Government and Consumer Services.

*Barbara Duckitt*

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

## Active Director(s)

Minimum Number of Directors 1  
Maximum Number of Directors 10

Name Asminur RAHAMAN  
Address for Service 104 Veterans Dr, Brampton, Ontario, Canada, L7A 3Z7  
Resident Canadian Yes  
Date Began November 29, 2018

Name Shakive RAHAMAN  
Address for Service 104 Veterans Dr, Brampton, Ontario, Canada, L7A 3Z7  
Resident Canadian Yes  
Date Began November 29, 2018

Certified a true copy of the record of the Ministry of Government and Consumer Services.

*Barbara Duckitt*

Director/Registrar

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**Active Officer(s)**

There are no active Officers currently on file for this corporation.

Certified a true copy of the record of the Ministry of Government and Consumer Services.

*Barbara Duckitt*

Director/Registrar

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Corporate Name History

Name

2668144 ONTARIO INC.

Effective Date

November 29, 2018

Certified a true copy of the record of the Ministry of Government and Consumer Services.

*Barbara Duckitt*

Director/Registrar

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#### Active Business Names

This corporation does not have any active business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Government and Consumer Services.

*Barbara Duckitt*

Director/Registrar

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#### Expired or Cancelled Business Names

This corporation does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Government and Consumer Services.

*Barbara Duckitt*

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

## Document List

Filing Name	Effective Date
Annual Return - 2020 PAF: SHAKIVE RAHAMAN - DIRECTOR	January 17, 2021
Annual Return - 2019 PAF: SHAKIVE RAHAMAN - DIRECTOR	June 28, 2020
BCA - Articles of Incorporation	November 29, 2018

All "PAF" (person authorizing filing) information is displayed exactly as recorded in the Ontario Business Registry. Where PAF is not shown against a document, the information has not been recorded in the Ontario Business Registry.

Certified a true copy of the record of the Ministry of Government and Consumer Services.


*Barbara Duckitt*

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

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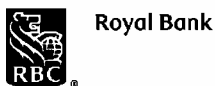
This is Exhibit "B" referred to  
in the Affidavit of Michael Foster  
Sworn this 30<sup>th</sup>  
day of June, 2023.

  
Rachel Moses (Jul 4, 2023 08:10 EDT)

A Commissioner for Taking Affidavits

Rachel Moses / LSO# 42081V

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**ROYAL BANK OF CANADA CREDIT AGREEMENT**

DATE: June 22, 2021

<b>BORROWER:</b> 2668144 ONTARIO INC.	<b>SRF:</b> 334760261
<b>ADDRESS</b> (Street, City/Town, Province, Postal Code) 104 ROTHWELL GARDENS PETERBOROUGH, ON K9H 0G8	

Royal Bank of Canada (the “**Bank**”) hereby confirms to the undersigned (the “**Borrower**”) the following credit facilities (the “**Credit Facilities**”), banking services and other products subject to the terms and conditions set forth below and in the standard terms provided herewith (collectively the “**Agreement**”). The Credit Facilities are made available at the sole discretion of the Bank and the Bank may cancel or restrict availability of any unutilized portion of these facilities at any time and from time to time without notice.

**CREDIT FACILITIES**

**Facility #1 Fixed rate term loan (non-revolving) in the amount of \$1,273,852.04.** Repayable by consecutive bi-weekly blended payments of \$4,701.22, including interest, based on a 177 month amortization. Next blended payment is due June 28, 2021. This loan has a 10 month term and all outstanding principal and interest is payable in full on March 5, 2022. Interest rate: 5.01% per annum. Amount eligible for prepayment is NIL.

**Facility #2 Revolving demand facility in the amount of \$65,000.00, available by way of RBP based loans, LCs and/or LGs.**

Minimum retained balance \$0.00

Revolved by the Bank in increments of \$5,000.00

Interest rate: RBP + 2.48% per annum. Interest payable monthly, in arrears, on the same day each month as determined by the Bank.

LC & LG fees to be advised on a transaction-by-transaction basis.

Margined: Yes [ ] No [X]

**OTHER FACILITIES**

The Credit Facilities are in addition to the following facilities (the “**Other Facilities**”). The Other Facilities will be governed by this Agreement and separate agreements between the Borrower and the Bank. In the event of a conflict between this Agreement and any such separate agreement, the terms of the separate agreement will govern.

a) Credit Card to a maximum amount of \$15,000.00 available in Canadian currency and US currency.

**SECURITY**

Security for the Borrowings and all other obligations of the Borrower to the Bank, including without limitation any amounts outstanding under any Leases, if applicable, (collectively, the “**Security**”), shall include:

- a) General security agreement on the Bank’s form 924 signed by the Borrower constituting a first ranking security interest in all personal property of the Borrower;
- b) Collateral mortgage in the amount of \$1,445,000.00 signed by the Borrower constituting a first fixed charge on the lands and improvements located at 989 Ward Street, Bridgenorth, Ontario;
- c) Guarantee and postponement of claim on the Bank’s form 812 in the amount of \$1,445,000.00 signed by Shakive Rahaman and Asminur Rahaman;
- d) Postponement and assignment of claim on the Bank’s form 918 signed by Shakive Rahaman;
- e) Postponement and assignment of claim on the Bank’s form 918 signed by Asminur Rahaman.

Registered trademark of Royal Bank of Canada.

**FEES**

Annual renewal fee of \$1,339.00 payable upon acceptance of this Agreement or as agreed upon between the Borrower and the Bank.

Renewal Fee:

If the Bank renews or extends any term facility or term loan beyond its maturity date, an additional renewal fee may be payable in connection with any such renewal in such amount as the Bank may determine and notify the Borrower.

**FINANCIAL COVENANTS**

In the event that the Borrower changes accounting standards, accounting principles and/or the application of accounting principles during the term of this Agreement, all financial covenants shall be calculated using the accounting standards and principles applicable at the time this Agreement was entered into.

Without affecting or limiting the right of the Bank to terminate or demand payment of, or cancel or restrict availability of any unutilized portion of any demand or other discretionary facility, the Borrower covenants and agrees with the Bank that the Borrower will:

- a) maintain, to be measured at the end of each fiscal year:
  - i. Debt Service Coverage of not less than 1.25:1.

**REPORTING REQUIREMENTS**

The Borrower will provide to the Bank:

- a) annual review engagement financial statements for the Borrower, within 90 days of each fiscal year end;
- b) annual personal statement of affairs for all Guarantors, who are individuals, within 90 days of the end of every fiscal year of the Borrower, commencing with the fiscal year ending in 2022;
- c) such other financial and operating statements and reports as and when the Bank may reasonably require.

**BUSINESS LOAN INSURANCE PLAN**

The Borrower hereby acknowledges that the Bank has offered it group creditor insurance coverage on the Borrowings under the Business Loan Insurance Plan and the Borrower hereby acknowledges that it is the Borrower's responsibility to apply for any new or increased insurance amount for the Borrowings that may be eligible.

If the Borrower decides to apply for insurance on the Borrowings, the application will be made via the Bank's Business Loan Insurance Plan application (form 3460 ENG or 53460 FRE). If the Borrower has existing uninsured Borrowings and decides not to apply for Business Loan Insurance Plan coverage on any new Borrowings, it hereby acknowledges that the Bank may accept the Borrower's signature below as the Borrower's waiver of the Bank's offer to apply for Business Loan Insurance Plan coverage on all such Borrowings, and that all such Borrowings are not insured under the Policy as at the date of acceptance of this Agreement.

If the Borrower has Business Loan Insurance Plan coverage on previously approved Borrowings, such coverage will be applied automatically to all new Borrowings eligible for Business Loan Insurance Plan coverage that share the same loan account number, up to the approved amount of Business Loan Insurance Plan coverage. This Agreement cannot be used to waive coverage on new Borrowings eligible for Business Loan Insurance Plan coverage if Business Loan Insurance Plan coverage is in effect on the Borrower's existing Borrowings. If the Borrower does not want Business Loan Insurance Plan coverage to apply to any new Borrowings, a different loan account number will need to be set up and all uninsured loans attached to it.

If the Borrower has existing Borrowings to which Business Loan Insurance Plan coverage applies, and any new Borrowings would exceed the approved amount of Business Loan Insurance Plan coverage already in place, the Borrower must apply for additional Business Loan Insurance Plan coverage (if eligible) in order for Business Loan Insurance Plan coverage to apply to any new Borrowings. If the Borrower decides not to apply for additional Business Loan Insurance Plan coverage in respect of any new Borrowings (if eligible), the Borrower hereby acknowledges that the Bank may accept the Borrower's signature below as the Borrower's waiver of the Bank's offer to apply for additional Business Loan Insurance Plan coverage on such new Borrowings and that such new Borrowings are not insured under the Policy as at the date the Borrower executes this Agreement.

\* Registered trademark of Royal Bank of Canada.

If there are any discrepancies between the insurance information in this Agreement and the Business Loan Insurance Plan documents regarding the Borrowings, the Business Loan Insurance Plan documents govern.

Business Loan Insurance Plan premiums (plus applicable taxes), will be taken as a separate payment, directly from the bank account associated with the loan, at the same frequency and schedule as your regular loan payments, where applicable. As premiums are based on the outstanding loan balance and the insured person's age at the time the premiums are due, the cost of Business Loan Insurance Plan coverage may increase during the term of the loan. The premium calculation is set out in the Business Loan Insurance Plan terms and conditions provided to the Borrower at the time the application for Business Loan Insurance Plan coverage was completed. Refer to the terms and conditions (form 3460 ENG or 53460 FRE) for further explanation and disclosure.

### **STANDARD TERMS**

The following standard terms have been provided to the Borrower:

- Form 472 (11/2020) Royal Bank of Canada Credit Agreement – Standard Terms  
 Form 473 (02/2020) Royal Bank of Canada Credit Agreement – Margined Accounts Standard Terms  
 Form 473A (06/2021) Royal Bank of Canada Credit Agreement – RBC Covarity Terms and Conditions  
 Form 473B (02/2020) Royal Bank of Canada Credit Agreement – Margined Accounts Standard Terms

### **ACCEPTANCE**

This Agreement is open for acceptance until July 22, 2021, after which date it will be null and void, unless extended by the Bank in its sole discretion.

### **ROYAL BANK OF CANADA**



Per: \_\_\_\_\_  
 Title: Vice President

### **RBC Contact: PREJNA ERINHIKKAL**

/gds

### **CONFIRMATION & ACCEPTANCE**

The Borrower (i) confirms that it has received a copy of the Royal Bank of Canada Credit Agreement Standard Terms, Form 472, as well as all other standard terms which are hereinabove shown as having been delivered to the Borrower, all of which are incorporated in and form an integral part of this Agreement; and (ii) accepts and agrees to be bound by the terms and conditions of this Agreement including all terms and conditions contained in such standard terms.

Confirmed, accepted and agreed this 27 day of August, 2021.

2668144 ONTARIO INC. Pharmacy

Per: SHAKIVE RAHAMAN  
 Name: PRESIDENT  
 Title: \_\_\_\_\_

Per: Asm  
 Name: ASMINUR RAHAMAN  
 Title: Director

I/We have the authority to bind the Borrower

\* Registered trademark of Royal Bank of Canada.

ROYAL BANK OF CANADA CREDIT AGREEMENT

The following set of standard terms is deemed to be included in and forms an integral part of the Royal Bank of Canada Loan Agreement which refers to standard terms with this document version date, receipt of which has been duly acknowledged by the Borrower. Terms defined elsewhere in this Agreement and not otherwise defined below have the meaning given to such terms as so defined. The Borrower agrees and if the Borrower is comprised of more than one Person, such Persons jointly and severally agree, or in Quebec solidarily agree, with the Bank as follows:

#### GENERAL

This Agreement amends and restates, without novation, any existing credit or loan agreement between the Borrower and the Bank and any amendments thereto, (other than existing agreements for Other Facilities). Any credit facility existing under any such credit or loan agreement which is secured by security under section 427 of the *Bank Act* (Canada) (or any successor to such provision) is deemed to be continued and renewed, without novation, under the Credit Facilities. Any amount owing by the Borrower to the Bank under any such credit or loan agreement is deemed to be a Borrowing under this Agreement. This Agreement is in addition to, and not in replacement of, agreements for Other Facilities. Any and all Security that has been delivered to the Bank and which is included as Security in this Agreement shall remain in full force and effect, is expressly reserved by the Bank and shall apply in respect of all obligations of the Borrower under the Credit Facilities. The Bank expressly reserves all Security granted to the Bank by the Borrower to secure the Borrower's existing debt towards the Bank, should the execution of this Agreement effect a novation of said debt. Unless otherwise provided, all dollar amounts are in Canadian currency.

#### CONDITIONS PRECEDENT

In no event will the Credit Facilities or any part thereof be available unless the Bank has received:

- a) a duly executed copy of this Agreement;
- b) the Security provided for herein, in form and substance, and executed and registered to the satisfaction of the Bank;
- c) such financial and other information or documents relating to the Borrower or any Guarantor if applicable as the Bank may reasonably require; and
- d) such other authorizations, approvals, opinions and documentation as the Bank may reasonably require.

#### AVAILABILITY

**Revolving facilities:** The Borrower may borrow, convert, repay and reborrow up to the amount of each revolving facility (subject to Margin where applicable) provided each facility is made available at the sole discretion of the Bank and the Bank may cancel or restrict the availability of any unutilized portion at any time and from time to time without notice.

**Non-revolving facilities:** The Borrower may borrow up to the amount of each non-revolving facility provided these facilities are made available at the sole discretion of the Bank and the Bank may cancel or restrict availability of any unutilized portion of these facilities at any time and from time to time without notice.

#### LOAN REVOLVEMENT

If the Credit Facilities include a revolving demand facility by way of RBP and/or RBUSBR based loans, the Borrower shall establish a current account in Canadian currency, and, where RBUSBR based loans are made available, in US currency (each a "**General Account**") for the conduct of the Borrower's day-to-day banking business. The Borrower authorizes the Bank daily or otherwise as and when determined by the Bank to ascertain the balance of any General Account and:

- a) if such position is a debit balance the Bank may, subject to the revolving increment amount and minimum retained balance specified in this Agreement, make available a Borrowing by way of RBP Loans, or RBUSBR Loans as applicable, under this facility;
- b) where the facility is indicated to be Bank revolved, if such position is a credit balance, the Bank may, subject to the revolving increment amount and minimum retained balance specified in this Agreement, apply the amount of such credit balance or any part as a repayment of any Borrowings outstanding by way of RBP Loans, or RBUSBR Loans as applicable, under this facility;
- c) where this facility is indicated to be Borrower revolved, if such position is a credit balance, the Bank will apply repayments on such facility only if so advised and directed by the Borrower;
- d) Overdrafts and Bank revolved facilities by way of RBP Loans, or RBUSBR Loans, are not available on the same General Account.

#### REPAYMENT

- a) Amounts outstanding under the Credit Facilities, together with interest, shall become due in the manner and at the rates and times specified in or pursuant to this Agreement and shall be paid in the currency of the Borrowing. Amounts due on a day other than a Business Day shall be deemed to be due on the Business Day next following such day.
- b) Unless the Bank otherwise agrees, any payment hereunder must be made in money which is legal tender at the time of payment.
- c) In the case of a demand facility of any kind, the Borrower shall repay all principal sums outstanding under such facility upon demand including, without limitation, an amount equal to the face amount of all LCs and LGs, if applicable, which are unexpired, which amount shall be held by the Bank as security for the Borrower's obligations to the Bank in respect of such Borrowings.
- d) Where any Borrowings are repayable by scheduled blended payments of principal and interest, such payments shall be applied, firstly, to interest due, and the balance, if any, shall be applied to principal outstanding with any balance of such Borrowings being due and payable as and when specified in this Agreement. If any such payment is insufficient to pay all interest then due, the unpaid balance of such interest will be added to such Borrowing, will bear interest at the same rate, and will be payable on demand or on the date specified herein, as the case may be.
- e) Borrowings repayable by way of scheduled payments of principal plus interest shall be so repaid with any balance of such Borrowings being due and payable as and when specified in this Agreement.
- f) For any Borrowings that are repayable by scheduled payments, if the scheduled payment date is changed then the maturity date of the applicable Borrowings shall automatically be amended accordingly.
- g) Without limiting the right of the Bank to terminate or demand payment of or to cancel or restrict availability of any unused portion of any revolving demand tender loan facility, Borrowings by way of tender loans shall be repaid (i) if the tender is not accepted, by returning the relevant draft, or certified cheque, if applicable, to the Bank for cancellation or (ii) if the tender is accepted, by returning the relevant draft, or certified cheque, if applicable, once letters of guarantee or performance bonds are arranged. In the event such draft, or certified cheque, if applicable, is presented for payment, the amount of the draft, or certified cheque, if applicable, will be converted to an RBP based loan with an interest rate of RBP plus 5% per annum.
- h) Should the Bank demand immediate repayment in full of any amounts outstanding under any term facility due to an Event of Default, the Borrower shall immediately repay all principal sums outstanding under such facility and all other obligations in connection with any such term facility.
- i) Except for Borrowings secured by a mortgage, any amount that is not paid when due hereunder shall bear interest until paid at the rate of RBP plus 5% per annum or the highest premium indicated for any of the Borrower's facilities when in excess of 5%, or, in the case of an amount in US currency if applicable, RBUSBR plus 5% per annum or the highest premium indicated for any of the Borrower's facilities when in excess of 5%. Such interest on overdue amounts shall be computed daily, compounded monthly and shall be payable both before and after any or all of



default, maturity, demand and judgement. For Borrowings secured by a mortgage, any amount that is not paid when due hereunder shall bear interest until paid at the same rate as the interest rate applicable to the principal amount of the Borrowings as specified in this Agreement.

- j) In the case of any reducing term loan and/or reducing term facility (“**Reducing Term Loan/Facility**”), provided that nothing contained in this paragraph shall confer any right of renewal or extension upon the Borrower, the Borrower and the Bank agree that, at the Bank’s option, the Bank may provide a letter (“**Renewal Letter**”) to the Borrower setting out the terms upon which the Bank is prepared to extend the Reducing Term Loan/Facility. In the event that the Bank provides a Renewal Letter to the Borrower and the Reducing Term Loan/Facility is not repaid on or before the maturity date of the applicable Reducing Term Loan/Facility, then at the Bank’s option the Reducing Term Loan/Facility shall be automatically renewed on the terms set out in the Renewal Letter and the terms of this Agreement shall be amended accordingly.

#### PREPAYMENT

Where Borrowings under any term facility are by way of RBP and/or RBUSBR based loans, the Borrower may prepay such Borrowings in whole or in part at any time without fee or premium.

Where Borrowings under any term facility are at a fixed interest rate, provided an Event of Default shall not have occurred and be continuing, the Borrower may prepay such Borrowings on a non-cumulative basis up to the percentage indicated in this Agreement of the outstanding principal balance on the day of prepayment, without fee or premium, once per year during the 12 month period from each anniversary date of the Borrowing. Any prepayment of the Borrowing prior to the maturity date, in whole or in part (in excess of any prepayment explicitly permitted in this Agreement), requires an amendment of the terms of this Agreement. An amendment to permit such a prepayment requires the Bank’s prior written consent. The Bank may provide its consent to an amendment to permit a prepayment upon satisfaction by the Borrower of any conditions the Bank may reasonably impose, including, without limitation, the Borrower’s agreement to pay the Prepayment Fee as defined below.

The Prepayment Fee will be calculated by the Bank as the sum of:

- a) the greater of:
  - (i) the amount equal to three (3) months’ interest payable on the amount of the fixed rate term facility Borrowing being prepaid, calculated at the interest rate applicable to the fixed rate term facility Borrowing on the date of prepayment; and
  - (ii) the present value of the cash flow associated with the difference between the Bank’s original cost of funds for the fixed rate term facility Borrowing and the current cost of funds for a fixed rate term loan with a term substantially similar to the remaining term and an amortization period substantially similar to the remaining amortization period of the fixed rate term facility Borrowing, each as determined by the Bank on the date of such prepayment;

plus:
- b) Foregone margin over the remainder of the term of the fixed rate term facility Borrowing. Foregone margin is defined as the present value of the difference between the Bank’s original cost of funds for the fixed rate term facility Borrowing and the interest that would have been charged to the Borrower over the remaining term of the fixed rate term facility Borrowing;

plus:

- c) a processing fee.

The Prepayment Fee shall also be payable by the Borrower in the event the Bank demands repayment of the outstanding fixed rate term facility Borrowing on the occurrence of an Event of Default. The Borrower’s obligation to pay the Prepayment Fee will be in addition to any other amounts then owing by the Borrower to the Bank, will form part of the Borrowings outstanding and will be secured by the Security described herein.

The prepayment of any Borrowings under a term facility will be made in the reverse order of maturity.

#### EVIDENCE OF INDEBTEDNESS

The Bank shall maintain accounts and records (the “**Accounts**”) evidencing the Borrowings made available to the Borrower by the Bank under this Agreement. The Bank shall record the principal amount of such Borrowings, the payment of principal and interest on account of the Borrowings, and all other amounts becoming due to the Bank under this Agreement. The Accounts constitute, in the absence of manifest error, conclusive evidence of the indebtedness of the Borrower to the Bank pursuant to this Agreement. The Borrower authorizes and directs the Bank to automatically debit, by mechanical, electronic or manual means, any bank account of the Borrower for all amounts payable under this Agreement, including, but not limited to, the repayment of principal and the payment of interest, fees and all charges for the keeping of such bank accounts.

#### CALCULATION AND PAYMENT OF INTEREST AND FEES

- a) The Borrower shall pay interest on each Overdraft, RBP and/or RBUSBR based loan monthly in arrears on the same day of each month as determined by the Bank. Such interest will be calculated monthly and will accrue daily on the basis of the actual number of days elapsed and a year of 365 days.
- b) The Borrower shall pay interest on each fixed and/or variable rate term facility in arrears at the applicable rate on such date as agreed upon between the Bank and the Borrower. Such interest will be calculated monthly and will accrue daily on the basis of the actual number of days elapsed and a year of 365 days.
- c) The Borrower shall pay an LC fee on the date of issuance of any LC calculated on the face amount of the LC issued, based upon the number of days in the term and a year of 365 days. If applicable, fees for LCs issued in US currency shall be paid in US currency.
- d) The Borrower shall pay LG fees in advance on a quarterly basis calculated on the face amount of the LG issued and based on the number of days in the upcoming quarter or remaining term thereof and a year of 365 days. LG fees are non-refundable. If applicable, fees for LGs issued in US currency shall be paid in US currency.
- e) Amounts payable by the Borrower hereunder shall be paid at such place as the Bank may advise from time to time in the applicable currency. Amounts due on a day other than a Business Day shall be deemed to be due on the Business Day next following such day. Interest and fees payable under this Agreement are payable both before and after any or all of default, maturity, demand and judgement.
- f) The Borrower shall not be obligated to pay any interest, fees or costs under or in connection with this Agreement in excess of what is permitted by Applicable Law. In no event shall the effective interest rate payable by the Borrower under any facility be less than zero.

- g) The annual rates of interest or fees to which the rates calculated in accordance with this Agreement are equivalent, are the rates so calculated multiplied by the actual number of days in the calendar year in which such calculation is made and divided by 365.

#### FEES, COSTS AND EXPENSES

The Borrower agrees to pay the Bank all fees stipulated in this Agreement and all fees charged by the Bank relating to the documentation or registration of this Agreement and the Security. In addition, the Borrower agrees to pay all fees (including legal fees), costs and expenses incurred by the Bank in connection with the preparation, negotiation, documentation and registration of this Agreement and any Security and the administration, operation, termination, enforcement or protection of its rights in connection with this Agreement and the Security. The Borrower shall indemnify and hold the Bank harmless against any loss, cost or expense incurred by the Bank if any facility under the Credit Facilities is repaid or prepaid other than on its Maturity Date. The determination by the Bank of such loss, cost or expense shall be conclusive and binding for all purposes and shall include, without limitation, any loss incurred by the Bank in liquidating or redepositing deposits acquired to make or maintain any facility.

#### GENERAL COVENANTS

Without affecting or limiting the right of the Bank to terminate or demand payment of, or cancel or restrict availability of any unutilized portion of, any demand or other discretionary facility, the Borrower covenants and agrees with the Bank that the Borrower:

- a) will pay all sums of money when due under the terms of this Agreement;
- b) will immediately advise the Bank of any event which constitutes or which, with notice, lapse of time or both, would constitute a breach of any covenant or other term or condition of this Agreement or any Security or an Event of Default;
- c) will file all material tax returns which are or will be required to be filed by it, pay or make provision for payment of all material taxes (including interest and penalties) and Potential Prior-Ranking Claims, which are or will become due and payable and provide adequate reserves for the payment of any tax, the payment of which is being contested;
- d) will give the Bank 30 days prior notice in writing of any intended change in its ownership structure or composition and will not make or facilitate any such changes without the prior written consent of the Bank;
- e) will comply with all Applicable Laws, including, without limitation, all Environmental and Health and Safety Laws;
- f) will immediately advise the Bank of any action requests or violation notices received concerning the Borrower and hold the Bank harmless from and against any losses, costs or expenses which the Bank may suffer or incur for any environment related liabilities existent now or in the future with respect to the Borrower;
- g) will deliver to the Bank such financial and other information as the Bank may reasonably request from time to time, including, but not limited to, the reports and other information set out under this Agreement;
- h) will immediately advise the Bank of any unfavourable change in its financial position which may adversely affect its ability to pay or perform its obligations in accordance with the terms of this Agreement;
- i) will keep its assets fully insured against such perils and in such manner as would be customarily insured by Persons carrying on a similar business or owning similar assets and, in addition, for any buildings located in areas prone to flood and/or earthquake, will insure and keep fully insured such buildings against such perils;
- j) except for Permitted Encumbrances, will not, without the prior written consent of the Bank, grant, create, assume or suffer to exist any mortgage, charge, lien, pledge, security interest or other encumbrance affecting any of its properties, assets or other rights;
- k) will not, without the prior written consent of the Bank, sell, transfer, convey, lease or otherwise dispose of any of its properties or assets other than in the ordinary course of business and on commercially reasonable terms;
- l) will not, without the prior written consent of the Bank, guarantee or otherwise provide for, on a direct, indirect or contingent basis, the payment of any monies or performance of any obligations by any other Person, except as may be provided for herein;
- m) will not, without the prior written consent of the Bank, merge, amalgamate, or otherwise enter into any other form of combination with any other Person;
- n) will permit the Bank or its representatives, from time to time, i) to visit and inspect the Borrower's premises, properties and assets and examine and obtain copies of the Borrower's records or other information, ii) to collect information from any person regarding any Potential Prior-Ranking Claims and iii) to discuss the Borrower's affairs with the auditors, counsel and other professional advisers of the Borrower. The Borrower hereby authorizes and directs any such third party to provide to the Bank or its representatives all such information, records or documentation requested by the Bank; and
- o) will not use the proceeds of any Credit Facility for the benefit or on behalf of any Person other than the Borrower.

#### GENERAL INDEMNITY

The Borrower hereby agrees to indemnify and hold the Bank and its directors, officers, employees and agents harmless from and against any and all claims, suits, actions, demands, debts, damages, costs, losses, obligations, judgements, charges, expenses and liabilities of any nature which are suffered, incurred or sustained by, imposed on or asserted against any such Person as a result of, in connection with or arising out of i) any breach of any term or condition of this Agreement or any Security or any other agreement delivered to the Bank by the Borrower or any Guarantor if applicable or any Event of Default, ii) the Bank acting upon instructions given or agreements made by electronic transmission of any type, iii) the presence of Contaminants at, on or under or the discharge or likely discharge of Contaminants from, any properties now or previously used by the Borrower and iv) the breach of or non compliance with any Applicable Law by the Borrower or any Guarantor.

#### AMENDMENTS AND WAIVERS

Save and except for any waiver or extension of the deadline for acceptance of this Agreement at the Bank's sole discretion, which may be communicated in writing, verbally, or by conduct, no amendment or waiver of any provision of this Agreement will be effective unless it is in writing, signed by the Borrower and the Bank. No failure or delay, on the part of the Bank, in exercising any right or power hereunder or under any Security or any other agreement delivered to the Bank shall operate as a waiver thereof. Each Guarantor, if applicable, agrees that the amendment or waiver of any provision of this Agreement (other than agreements, covenants or representations expressly made by any Guarantor herein, if any) may be made without and does not require the consent or agreement of, or notice to, any Guarantor.

#### SUCCESSORS AND ASSIGNS

This Agreement shall extend to and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns. The Borrower shall not be entitled to assign or transfer any rights or obligations hereunder, without the consent in writing of the Bank.

#### GAAP

Unless otherwise provided, all accounting terms used in this Agreement shall be interpreted in accordance with Canadian Generally Accepted Accounting Principles, as appropriate, for publicly accountable enterprises, private enterprises, not-for-profit organizations, pension plans and in accordance, as appropriate, with Public Sector Accounting Standards for government organizations in effect from time to time, applied on a consistent

basis from period to period. All financial statements and/or reports shall be prepared using one of the above bases of presentation, as appropriate. Except for the transition of accounting standards in Canada, any change in accounting principles or the application of accounting principles is only permitted with the prior written consent of the Bank.

**SEVERABILITY**

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement and such invalid provision shall be deemed to be severable.

**DEFAULT BY LAPSE OF TIME**

The mere lapse of time fixed for performing an obligation shall have the effect of putting the Borrower in default thereof.

**SET-OFF**

The Bank is authorized (but not obligated), at any time and without notice, to apply any credit balance (whether or not then due) in any account in the name of the Borrower, or to which the Borrower is beneficially entitled (in any currency) at any branch or agency of the Bank in or towards satisfaction of the indebtedness of the Borrower due to the Bank under the Credit Facilities and the other obligations of the Borrower under this Agreement. For that purpose, the Bank is irrevocably authorized to use all or any part of any such credit balance to buy such other currencies as may be necessary to effect such application.

**CONSENT OF DISCLOSURE**

The Borrower hereby grants permission to any Person having information in such Person's possession relating to any Potential Prior-Ranking Claim, to release such information to the Bank (upon its written request), solely for the purpose of assisting the Bank to evaluate the financial condition of the Borrower.

**JOINT AND SEVERAL / SOLIDARY**

Where more than one Person is liable as Borrower, for any obligation under this Agreement, then the liability of each such Person for such obligation is joint and several (in Quebec, solidary) with each other such Person.

**EVENTS OF DEFAULT**

Without affecting or limiting the right of the Bank to terminate or demand payment of, or to cancel or restrict availability of any unutilized portion of, any demand or other discretionary facility, each of the following shall constitute an "Event of Default" which shall entitle the Bank, in its sole discretion, to cancel any Credit Facilities, demand immediate repayment in full of any amounts outstanding under any term facility, together with outstanding accrued interest and any other indebtedness under or with respect to any term facility, and to realize on all or any portion of any Security:

- a) failure of the Borrower to pay any principal, interest or other amount when due pursuant to this Agreement;
- b) failure of the Borrower, or any Guarantor if applicable, to observe any covenant, term or condition or provision contained in this Agreement, the Security or any other agreement delivered to the Bank or in any documentation relating hereto or thereto;
- c) the Borrower, or any Guarantor if applicable, is unable to pay its debts as such debts become due, or is, or is adjudged or declared to be, or admits to being, bankrupt or insolvent;
- d) if any proceeding is taken to effect a compromise or arrangement with the creditors of the Borrower, or any Guarantor if applicable, or to have the Borrower, or any Guarantor if applicable, declared bankrupt or wound up, or to have a receiver appointed for any part of the assets or operations of the Borrower, or any Guarantor if applicable, or if any encumbrancer takes possession of any part thereof;
- e) if in the opinion of the Bank there is a material adverse change in the financial condition, ownership structure or composition or operation of the Borrower, or any Guarantor if applicable;
- f) if any representation or warranty made by the Borrower in any document relating hereto or under any Security shall be false in any material respect; or
- g) if the Borrower, or any Guarantor if applicable, defaults in the payment of any other indebtedness, whether owing to the Bank or to any other Person, or defaults in the performance or observance of any agreement in respect of such indebtedness where, as a result of such default, the maturity of such indebtedness is or may be accelerated.

**LETTERS OF CREDIT AND/OR LETTERS OF GUARANTEE**

Borrowings made by way of LCs and/or LGs will be subject to the following terms and conditions:

- a) each LC and/or LG shall expire on a Business Day and shall have a term of not more than 365 days;
- b) at least 2 Business Days prior to the issue of an LC and/or LG, the Borrower shall execute a duly authorized application with respect to such LC and/or LG and each LC and/or LG shall be governed by the terms and conditions of the relevant application for such contract. If there is any inconsistency at any time between the terms of this Agreement and the terms of the application for LC and/or LG, the terms of the application for the LC and/or LG shall govern; and
- c) an LC and/or LG may not be revoked prior to its expiry date unless the consent of the beneficiary of the LC and/or LG has been obtained.
- d) LC and/or LG fees and drawings will be charged to the Borrower's accounts.

**FEF CONTRACTS**

Bank makes no formal commitment herein to enter into any FEF Contract and the Bank may, at any time and at all times, in its sole and absolute discretion, accept or reject any request by the Borrower to enter into a FEF Contract. Should the Bank make FEF Contracts available to the Borrower, the Borrower agrees, with the Bank as follows:

- a) the Borrower shall promptly issue or countersign and return a confirmation or acknowledgement of the terms of each such FEF Contract as required by the Bank;
- b) the Borrower shall, if required by the Bank, promptly enter into a Foreign Exchange and Options Master Agreement or such other agreement in form and substance satisfactory to the Bank to govern the FEF Contract(s);
- c) in the event of demand for payment under the Agreement, the Bank may terminate all or any FEF Contracts. If the agreement governing any FEF Contract does not contain provisions governing termination, any such termination shall be effected in accordance with customary market practice. The Bank's determination of amounts owing under any terminated FEF Contract shall be conclusive in the absence of manifest error. The Bank shall apply any amount owing to the Bank to the Borrower on termination of any FEF Contract against the Borrower's obligations to the Bank under the Agreement and any amount owing to the Bank by the Borrower on such termination shall be added to the Borrower's obligations to the Bank under the Agreement and secured by the Security;

- d) the Borrower shall pay all required fees in connection with any FEF Contracts and indemnify and hold the Bank harmless against any loss, cost or expense incurred by the Bank in relation to any FEF Contract;
- e) any rights of the Bank herein in respect of any FEF Contract are in addition to and not in limitation of or substitution for any rights of the Bank under any agreement governing such FEF Contract. In the event that there is any inconsistency at any time between the terms hereof and any agreement governing such FEF Contract, the terms of such agreement shall prevail;
- f) in addition to any security which may be held at any time in respect of any FEF Contract, upon request by the Bank from time to time, the Borrower will deliver to the Bank such security as is acceptable to the Bank as continuing collateral security for the Borrower's obligations to the Bank in respect of FEF Contracts; and
- g) the Borrower will enter each FEF Contract as principal, and only for purposes of hedging currency risk arising in the ordinary course of the Borrower's business and not for purposes of speculation. The Borrower understands and hereby acknowledges the risks associated with each FEF Contract.

#### EXCHANGE RATE FLUCTUATIONS

If, for any reason, the amount of Borrowings and/or Leases if applicable, outstanding under any facility in a currency other than Canadian currency, when converted to the Equivalent Amount in Canadian currency, exceeds the amount available under such facility, the Borrower shall immediately repay such excess or shall secure such excess to the satisfaction of the Bank.

#### LANGUAGE

The parties hereto have expressly requested that this Agreement and all related documents, including notices, be drawn up in the English language. Les parties ont expressément demandé que la présente convention et tous les documents y afférents, y compris les avis, soient rédigés en langue anglaise.

#### WHOLE AGREEMENT

This Agreement and any documents or instruments referred to in, or delivered pursuant to, or in connection with, this Agreement constitute the whole and entire agreement between the Borrower and the Bank with respect to the Credit Facilities.

#### GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the Province in which the branch of the Bank, which is the Borrower's branch of account, is located, and the laws of Canada applicable therein, as the same may from time to time be in effect. The Borrower irrevocably submits to the non-exclusive jurisdiction of the courts of such Province and acknowledges the competence of such courts and irrevocably agrees to be bound by a judgment of any such court.

#### NOTICES

Any notice or demand to be given by the Bank shall be given in writing by way of a letter addressed to the Borrower. If the letter is sent by telecopier, it shall be deemed received on the date of transmission, provided such transmission is sent prior to 5:00 p.m. on a day on which the Borrower's business is open for normal business, and otherwise on the next such day. If the letter is sent by ordinary mail to the address of the Borrower, it shall be deemed received on the date falling five (5) days following the date of the letter, unless the letter is hand-delivered to the Borrower, in which case the letter shall be deemed to be received on the date of delivery. The Borrower must advise the Bank at once about any changes in the Borrower's address.

#### COUNTERPART EXECUTION

This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together constitute one and the same instrument.

#### ELECTRONIC MAIL AND FAX TRANSMISSION

The Bank is entitled to rely on any agreement, document or instrument provided to the Bank by the Borrower or any Guarantor as applicable, by way of electronic mail or fax transmission as though it were an original document. The Bank is further entitled to assume that any communication from the Borrower received by electronic mail or fax transmission is a reliable communication from the Borrower.

#### ELECTRONIC IMAGING

The parties hereto agree that, at any time, the Bank may convert paper records of this Agreement and all other documentation delivered to the Bank (each, a "Paper Record") into electronic images (each, an "Electronic Image") as part of the Bank's normal business practices. The parties agree that each such Electronic Image shall be considered as an authoritative copy of the Paper Record and shall be legally binding on the parties and admissible in any legal, administrative or other proceeding as conclusive evidence of the contents of such document in the same manner as the original Paper Record.

#### CONFIDENTIALITY

This Agreement and all of its terms are confidential ("**Confidential Information**"). The Borrower shall keep the Confidential Information confidential and will not disclose the Confidential Information, or any part thereof, to any Person other than the Borrower's directors, officers, employees, agents, advisors, contractors, consultants and other representatives of the Borrower who need to know the Confidential Information for the purpose of this Agreement, who shall be informed of the confidential nature of the Confidential Information and who agree or are otherwise bound to treat the Confidential Information consistent with the terms of this Agreement. Without limiting the generality of the foregoing, the Borrower shall not issue any press release or make any other public announcement or filing with respect to the Confidential Information without the Bank's prior written consent.

#### DEFINITIONS

For the purpose of this Agreement, if applicable, the following terms and phrases shall have the following meanings:

"**Applicable Laws**" means, with respect to any Person, property, transaction or event, all present or future applicable laws, statutes, regulations, rules, policies, guidelines, rulings, interpretations, directives (whether or not having the force of law), orders, codes, treaties, conventions, judgements, awards, determinations and decrees of any governmental, quasi-governmental, regulatory, fiscal or monetary body or agency or court of competent jurisdiction in any applicable jurisdiction;

"**Borrowing**" means each use of a Credit Facility, excluding Leases, and all such usages outstanding at any time are "Borrowings";

**“Business Day”** means a day, excluding Saturday, Sunday and any other day which shall be a legal holiday in Canada or any Province thereof, or a day on which banking institutions are closed throughout Canada;

**“Business Loan Insurance Plan”** means the optional group creditor insurance coverage, underwritten by Sun Life Assurance Company of Canada, and offered in connection with eligible loan products offered by the Bank;

**“Capital Expenditures”** means, for any fiscal period, any amounts accrued or paid in respect of any purchase or other acquisition for value of capital assets and, for greater certainty, excludes amounts expended in respect of the normal repair and maintenance of capital assets utilized in the ordinary course of business;

**“Contaminant”** includes, without limitation, any pollutant, dangerous substance, liquid waste, industrial waste, hazardous material, hazardous substance or contaminant including any of the foregoing as defined in any Environmental and Health and Safety Law;

**“Corporate Distributions”** means any payments to any shareholder, director or officer, or to any associate or holder of subordinated debt, or to any shareholder, director or officer of any associate or holder of subordinated debt, including, without limitation, bonuses, dividends, interest, salaries or repayment of debt or making of loans to any such Person, but excluding salaries to officers or other employees in the ordinary course of business;

**“Current Assets”** means, at any time, those assets ordinarily realizable within one year from the date of determination or within the normal operating cycle, where such cycle is longer than a year;

**“Current Liabilities”** means, at any time, amounts payable within one year from the date of determination or within the normal operating cycle, where such cycle is longer than a year (the operating cycle must correspond with that used for current assets);

**“Current Ratio”** means the ratio of Current Assets to Current Liabilities;

**“Debt Service Coverage”** means, for any fiscal period, the ratio of EBITDA to the total of Interest Expense and scheduled principal payments in respect of Funded Debt;

**“EBITDA”** means, for any fiscal period, net income from continuing operations (excluding extraordinary gains or losses) plus, to the extent deducted in determining net income, Interest Expense and income taxes accrued during, and depreciation, depletion and amortization expenses deducted for, the period;

**“Environmental Activity”** means any activity, event or circumstance in respect of a Contaminant, including, without limitation, its storage, use, holding, collection, purchase, accumulation, assessment, generation, manufacture, construction, processing, treatment, stabilization, disposition, handling or transportation, or its Release into the natural environment, including movement through or in the air, soil, surface water or groundwater;

**“Environmental and Health and Safety Laws”** means all Applicable Laws relating to the environment or occupational health and safety, or any Environmental Activity;

**“Equivalent Amount”** means, with respect to an amount of any currency, the amount of any other currency required to purchase that amount of the first mentioned currency through the Bank in Toronto, in accordance with normal banking procedures;

**“Equity”** means the total of share capital (excluding preferred shares redeemable within one year) contributed surplus and retained earnings plus Postponed Debt;

**“Financial Assistance”** means any form of direct or indirect financial assistance of any other Person by means of a loan, guarantee or otherwise or any obligations (contingent or otherwise) intended to enable another Person to incur or pay any debt or comply with any agreements related thereto or to otherwise assure or protect creditors of another Person against loss in respect of debt or any other obligations of such other Person;

**“Fixed Charge Coverage”** means, for any fiscal period, the ratio of EBITDA plus payments under operating leases less cash income taxes, Corporate Distributions and Unfunded Capital Expenditures to Fixed Charges;

**“Fixed Charges”** means, for any fiscal period, the total of Interest Expense, scheduled principal payments in respect of Funded Debt and payments under operating leases;

**“Foreign Exchange Forward Contract”** or **“FEF Contract”** means a currency exchange transaction or agreement or any option with respect to any such transaction now existing or hereafter entered into between the Borrower and the Bank.

**“Funded Debt”** means, at any time for the fiscal period then ended, all obligations for borrowed money which bears interest or to which interest is imputed plus, without duplication, all obligations for the deferred payment of the purchase of property, all capital lease obligations and all indebtedness secured by purchase money security interests, but excluding Postponed Debt;

**“Guarantor”** means any Person who has guaranteed the obligations of the Borrower under this Agreement;

**“Lease”** means an advance of credit by the Bank to the Borrower by way of a Master Lease Agreement, Master Leasing Agreement, Leasing Schedule, Equipment Lease, Conditional Sales Contract, or pursuant to an Interim Funding Agreement or an Agency Agreement, in each case issued to the Borrower;

**“Interest Expense”** means, for any fiscal period, the aggregate cost of advances of credit outstanding during that period including, without limitation, interest charges, capitalized interest, the interest component of capital leases, fees payable in respect of letters of credit and letters of guarantee and discounts incurred and fees payable in respect of bankers' acceptances.

**“Investment”** means the acquisition (whether for cash, property, services, securities or otherwise) of shares, bonds, notes, debentures, partnership or other property interests or other securities of any other Person or any agreement to make any such acquisition;

“**Letter of Credit**” or “**LC**” means a documentary credit issued by the Bank on behalf of the Borrower for the purpose of paying suppliers of goods;

“**Letter of Guarantee**” or “**LG**” means a documentary credit issued by the Bank on behalf of the Borrower for the purpose of providing security to a third party that the Borrower or a person designated by the Borrower will perform a contractual obligation owed to such third party;

“**Margin**” or “**Margined**” means that the availability of Borrowings under the credit facilities will be based on the Borrower’s level of accounts receivable, inventory and Potential Prior Ranking Claims as determined by reference to regular reports provided to the Bank by the Borrower;

“**Overdraft**” means advances of credit by way of debit balances in the Borrower’s current account;

“**Permitted Encumbrances**” means, in respect of the Borrower:

- a) liens arising by operation of law for amounts not yet due or delinquent, minor encumbrances on real property such as easements and rights of way which do not materially detract from the value of such property, and security given to municipalities and similar public authorities when required by such authorities in connection with the operations of the Borrower in the ordinary course of business; and
- b) Security granted in favour of the Bank;

“**Person**” includes an individual, a partnership, a joint venture, a trust, an unincorporated organization, a company, a corporation, an association, a government or any department or agency thereof including Canada Revenue Agency, and any other incorporated or unincorporated entity;

“**Policy**” means the Business Loan Insurance Plan policy 5100, issued by Sun Life Assurance Company of Canada to the Bank;

“**Postponed Debt**” means indebtedness that is fully postponed and subordinated, both as to principal and interest, on terms satisfactory to the Bank, to the obligations owing to the Bank hereunder;

“**Potential Prior-Ranking Claims**” means all amounts owing or required to be paid, where the failure to pay any such amount could give rise to a claim pursuant to any law, statute, regulation or otherwise, which ranks or is capable of ranking in priority to the Security or otherwise in priority to any claim by the Bank for repayment of any amounts owing under this Agreement;

“**RBP**” and “**Royal Bank Prime**” each means the annual rate of interest announced by the Bank from time to time as being a reference rate then in effect for determining interest rates on commercial loans made in Canadian currency in Canada;

“**RBUSBR**” and “**Royal Bank US Base Rate**” each means the annual rate of interest announced by the Bank from time to time as a reference rate then in effect for determining interest rates on commercial loans made in US currency in Canada;

“**Release**” includes discharge, spray, inject, inoculate, abandon, deposit, spill, leak, seep, pour, emit, empty, throw, dump, place and exhaust, and when used as a noun has a similar meaning;

“**Tangible Net Worth**” means the total of Equity less intangibles, deferred charges, leasehold improvements, deferred tax credits and unsecured advances to related parties. For the purpose hereof, intangibles are assets lacking physical substance;

“**Total Liabilities**” means all liabilities exclusive of deferred tax liabilities and Postponed Debt;

“**Unfunded Capital Expenditures**” means Capital Expenditures not funded by either bank debt or equity proceeds.

“**US**” means United States of America.

If the Borrower elects to fulfill the reporting requirements relating to the submission of financial information set out in this Agreement by accessing a secure web based portal (“**RBC Covarity Dashboard**”) via the Internet and using RBC Covarity Dashboard to electronically upload the Borrower’s financial information and to complete online and electronically submit certificates, reports and/or forms (the “**Service**”), then the following terms and conditions (the “**RBC Covarity Dashboard Terms and Conditions**”) apply and are deemed to be included in, and form part of, the Agreement:

**1. Definitions.** For the purpose of the RBC Covarity Dashboard Terms and Conditions:

“**Disabling Code**” means any clock, timer, counter, computer virus, worm, software lock, drop dead device, Trojan horse routine, trap door, time bomb, or any other unauthorized codes, designs, routines or instructions that may be used to access, modify, replicate, distort, delete, damage or disable any Electronic Channel, including any related hardware or software.

“**Designated User**” an individual permitted to act on behalf of and bind the Borrower in all respects, and specifically in the submission of Electronically Uploaded Financial Information and/or Electronically Submitted Certificates.

“**Electronic Channel**” means any telecommunication or electronic transmission method which may be used in connection with the Service, including computer, Internet, telephone, e-mail or facsimile.

“**Electronic Communication**” means any information, disclosure, request or other communication or agreement sent, received or accepted using an Electronic Channel.

“**Electronically Submitted Certificates**” means certificates, reports and/or forms completed online and electronically submitted by any Designated User accessing the Service.

“**Electronically Uploaded Financial Information**” means financial data, reports and/or information of the Borrower electronically uploaded by any Designated User accessing the Service.

“**Internet**” means a decentralized global communications medium and the world-wide network of computer networks, accessible to the public, that are connected to each other using specific protocols, which provides for file transfer, electronic mail, remote log in, news, database access, and other services.

“**Password**” means a combination of numbers and/or letters selected by a Designated User that is used to identify the Designated User. The Password is used in conjunction with a User ID to access the Service.

“**Security Breach**” means any breach in the security of the Service, or any actual or threatened use of the Service, a Security Device, or Electronic Channel in a manner contrary to the Agreement, including, without limitation, the introduction of Disabling Code or a Virus to the Service.

“**Security Device**” means a combination of a User ID and Password.

“**Software**” means any computer program or programming (in any code format, including source code), as modified from time to time, and related documentation.

“**User ID**” means the combination of numbers and/or letters selected by the Borrower used to identify a particular Designated User. The User ID is used in conjunction with a Password to access the Service.

“**Virus**” means an element which is designed to corrupt data or enable access to or adversely impact upon the performance of computer systems, including any virus, worm, logic bomb and Trojan horse. Terms defined in the Agreement have the same meanings where used in the RBC Covarity Dashboard Terms and Conditions.

**2. Access to the Service.** The Borrower will appoint one or more Designated User(s) to access the Service on behalf of the Borrower. The Borrower acknowledges and agrees that each Designated User appointed by the Borrower may electronically upload the Borrower’s financial information and may view all previously uploaded financial information and all calculations in the RBC Covarity Dashboard.

At the time of registration for the Service, the Borrower will advise the Bank of the name and e-mail address of each Designated User. The Borrower will immediately advise the Bank if a Designated User changes or is no longer valid.

The Bank will provide the Borrower with a User ID and temporary password for each Designated User. Each Designated User will receive the User ID and temporary password delivered to their e-mail address. Each Designated User will change the temporary password to a unique Password which may not be easily guessed or obtained by others. If it is suspected or known that the Password has been compromised in any way, the Password must be changed immediately.

On first access to the Service, each Designated User will be required to read and agree to terms of use which will thereafter be accessible from a link located on each web page of the Service.

**3. Security Devices.** The Borrower recognizes that possession of a Security Device by any person may result in that person having access to the Service. The Borrower agrees that the use of a Security Device in connection with the Service, including any information sent, received or accepted using the Service, will be deemed to be conclusive proof that such information is accurate and complete, and the submission of which is authorized by, and enforceable against, the Borrower.

The Borrower is responsible for maintaining the security and confidentiality of Security Devices which may be used in connection with the Service. The Borrower is responsible for ensuring that a Security Device will only be provided to and used by a Designated User. The Borrower agrees to be bound by any actions or omissions resulting from the use of any Security Device in connection with the Service.

**4. Security.** Each party shall at all times have in place appropriate policies and procedures to protect the security and confidentiality of the Service, Electronic Channels and Electronic Communication and to prevent any unauthorized access to and use of the Service and Electronic Channels. The Borrower agrees to comply with any additional procedures, standards or other security requirements that the Bank may require in order to access the Service.

The Borrower will not (i) access or use the Service for an illegal, fraudulent, malicious or defamatory purpose, or (ii) take steps or actions that could or do undermine the security, integrity, effectiveness, goodwill or connectivity of the Service (including illegal, fraudulent, malicious, defamatory or other activities that threaten to harm or cause harm to any other person).

The Borrower agrees not to transmit via the Service any viruses, worms, defects, Trojan horses or any items of a destructive nature. The Borrower shall **maintain the security of their computer by using anti-virus scanning, a firewall and installing the latest security patches** to provide assurance that no Virus is introduced into the systems or Software while accessing the Service.

**5. Unsecure Electronic Channels.** The Borrower acknowledges and agrees that if it uses, or if it authorizes and directs the Bank to use, any unencrypted Electronic Channel, including unencrypted e-mail or facsimile, any Electronic Communication sent, received and/or accepted using such Electronic Channel is not secure, reliable, private or confidential. Any such Electronic Communication could be subject to interception, loss or alteration, and may not be received by the intended recipient in a timely manner or at all. The Borrower assumes full responsibility for the risks associated with such Electronic Communication.

**6. Notice of Security Breach.** The Borrower shall notify the Bank by notifying the RBC Account Manager in writing immediately of any Security Breach including: (i) any application vulnerability or if a Virus is contained in or affects transmission of information to the Service; or (ii) if the Borrower knows or reasonably ought to know that an unauthorized person may have access to the Service, Security Device or Electronic Channel.

If a Security Breach occurs the Borrower shall: (i) assist the Bank in the management of any consequences arising from it; (ii) take any reasonable steps necessary for it to take to mitigate any harm resulting from it; and (iii) take appropriate steps to prevent its recurrence.

**7. Binding Effect.** Any Electronic Communication that the Bank receives from or in the name of, or purporting to be from or in the name of, the Borrower or any other person on the Borrower's behalf in connection with the Service, will be considered to be duly authorized by, and enforceable against, the Borrower. The Bank will be authorized to rely and act on any such Electronic Communication, even if the Electronic Communication was not actually from the Borrower or such other person or differs in any way from any previous Electronic Communication sent to the Bank. Any Electronically Uploaded Financial Information will be considered to be financial information submitted to the Bank by an individual permitted to act on behalf of and bind the Borrower in all respects, and the Bank will be authorized to rely and act on any such Electronically Uploaded Financial Information accordingly. Any Electronically Submitted Certificates will be considered to be certificates, reports and/or forms completed and submitted to the Bank by an individual permitted to act on behalf of and bind the Borrower in all respects, and the Bank will be authorized to rely and act on any such Electronically Submitted Certificates accordingly.

**8. Representations and Warranties.** The Borrower represents and warrants to the Bank that each time Electronically Uploaded Financial Information and/or Electronically Submitted Certificates are submitted: (i) all financial statements, certificates, forms, reports and all information contained therein will be accurate and complete in all respects; (ii) all amounts certified as Potential Prior-Ranking Claims will be current amounts owing and not in arrears; (iii) all representations and warranties contained in the Agreement will be true and correct; and (iv) no event will have occurred which constitutes, or which, with notice, lapse of time, or both, would constitute an Event of Default or breach of any covenant or other term or condition of the Agreement. The Borrower will be deemed to repeat these representations and warranties each time Electronically Uploaded Financial Information and/or Electronically Submitted Certificates are submitted.

**9. Evidence.** Electronic records and other information obtained by the Bank in an Electronic Communication will be admissible in any legal, administrative or other proceedings as conclusive evidence of the contents of those communications in the same manner as an original paper document, and the Borrower waives any right to object to the introduction of any such record or other information into evidence on that basis.

**10. Limitation of Liability.** The Bank is not responsible or liable for any damages arising from: (i) inaccurate, incomplete, false, misleading, or fraudulent information provided to the Bank; (ii) losses incurred as a result of an actual or potential Security Breach; or (iii) losses incurred as a result of application vulnerability or Virus that is contained in or affects any Software or systems used by or on behalf of the Borrower in connection with the Service.

Although every effort is made to provide secure transmission of information, timely communication and confidentiality cannot be guaranteed. In no event shall the Bank be liable for any loss or harm resulting from the use of the Service, or from a breach of confidentiality in respect of use of the Service.



**11. Termination.** The ability of the Borrower to fulfill the reporting requirements relating to the submission of financial information set out in the Agreement using RBC Covarity Dashboard shall terminate upon revocation of access to the Service. In addition, the Bank may suspend or terminate access to or discontinue the Service immediately for any reason at any time without prior notice. The Bank will not be responsible for any loss or inconvenience that may result from such suspension or termination. The Borrower, upon giving notice to the Bank by notifying the RBC Account Manager in writing, may terminate use of the Service at any time.

**12. Amendment.** The Bank may amend these RBC Covarity Dashboard Terms and Conditions upon 30 days notice (which may be given electronically by way of e-mail or in writing) to the Borrower. The Borrower agrees that the continued use of the Service after the effective date of a change will constitute conclusive evidence of consent to all such amendments and the Borrower shall be bound by the amendments.



Royal Bank

## RBC Royal Bank® Visa<sup>+</sup> Business Card Agreement

For good and valuable consideration, we accept your offer for the Account and each Card on the following terms and conditions:

1. **What the Words Mean:** In this Agreement and the Disclosure Statement, please remember that,

"we", "our" and "us" mean the person or entity which has signed or submitted the Application and/or this Agreement, and;

"you" and "your" mean Royal Bank of Canada and companies under RBC®;

Please also remember that in this Agreement and the Disclosure Statement;

"Account" means the RBC Royal Bank Visa Business Card account you have opened in a Cardholder's name to which Debt is charged;

"Account Statement" means your written statement of the Account that you prepare for a Cardholder about every three (3) or four (4) weeks. The period covered by each Account Statement will vary between 27 days and 34 days;

"Aggregate Credit Limit" means the maximum aggregate amount of Debt that can remain outstanding and unpaid at any time in the Accounts of all Cardholders under this Agreement;

"Agreement" means this Visa Business Card Agreement and all annexes attached to this Visa Business Card Agreement;

"Application" means the request made to you for the Account and each Card;

"Authorized Person" means any individual we have designated in writing as being authorized to ask you to open an Account and issue a Card to a Cardholder under this Agreement and to perform administrative duties for us under this Agreement;

"Card" means any Visa Business credit card you issue to a Cardholder on an Account in their name at our request, and all renewals of and replacements for that credit card;

"Cardholder" means an individual for whom you have opened an Account and to whom you have issued a Card on that Account at the request of an Authorized Person under this Agreement;

"Cash Advance" means an advance of cash that is charged to a Cardholder's Account with, or in connection with, their Card (or any other eligible Account access card you have issued to the Cardholder) and bill payments made from the Account at a bank branch, at a banking machine or on the Internet, Credit Card Cheques, balance transfers and "cash-like" transactions, including, without limitation, money orders, wire transfers, travellers' cheques, and gaming transactions (including betting, off-track betting, race track wagers, casino gaming chips, lottery tickets);

"Credit Limit" means the maximum amount of Debt that can remain outstanding and unpaid at any time in a Cardholder's Account under this Agreement;

"Debt" means all amounts charged to a Cardholder's Account with or in connection with their Card, including Purchases, Cash Advances, interest, and Fees;

"Disclosure Statement" means your written statement of the Interest Rates and Fees for each Account and each Card set out in a document accompanying each Card when you issue it to a Cardholder and in any other document or statement you may send to Cardholders or us from time to time;

"Fee" means a fee that applies to a Cardholder's Account and this Agreement, as set out in the Disclosure Statement and in any document or other written statement you may send to the Cardholder or us from time to time;

"Grace Period" means the number of days between the Cardholder's Statement Date and Payment Due Date;

"Interest-Bearing Balance" means the unpaid balance of the Debt outstanding in a Cardholder's Account that is made up of any combination of Interest-Bearing Purchases and Interest-Bearing Fees and Cash Advances;

"Interest-Bearing Purchase and Interest-Bearing Fee" means a Purchase or Fee appearing on an Account Statement for the first time whether either or both of the following occurs: (i) the Debt shown on that Account Statement is not paid in full by that Account Statement's Payment Due Date or (ii) the Debt shown on the preceding Account Statement was not paid in full by the preceding Account Statement's Payment Due Date;

"Interest Rate (Cash Advances including Credit Card Cheques)" means the annual percentage rate of interest referred to in the Disclosure Statement and set out on each Account Statement that applies to each Cash Advance;

"Interest Rate (Interest-Bearing Purchases and Interest-Bearing Fees)" means the annual percentage rate of interest referred to in the Disclosure Statement and set out on each Account Statement that applies to each Interest-Bearing Purchase and Interest-Bearing Fee;

"Interest Rates" mean, collectively, the Interest Rate (Cash Advances including Credit Card Cheques) and the Interest Rate (Interest - Bearing Purchases and Interest-Bearing Fees);

"Liability Waiver Program" means the RBC Royal Bank Visa Liability Waiver program in force from time to time, a current copy of which is annexed to this Agreement;

"Minimum Payment" means the amount indicated as such on an Account Statement;

"New Balance" means the amount indicated as such on an Account Statement;

"Payment Due Date" means the date indicated as such on an Account Statement;

"Personal Identification Number" means the personal identification number that a Cardholder has selected in your prescribed manner;

"Purchase" means a purchase of goods or services (or both) that is charged to a Cardholder's Account with or in connection with their Card; and

"Statement Date" means the last date of the Statement period for which an Account Statement is produced.

2. **General Terms of Agreement:** This Agreement and the Disclosure Statement apply to each Account and Card. This Agreement replaces all prior Visa Business Card agreements between you and us for each Account and Card.

This Agreement is our promise to pay amounts owing on each of our Visa Business Accounts. It together with our Visa Business Card Application explains our rights and duties.

We acknowledge and agree that we must provide each Cardholder with a copy of this Agreement.

If a Cardholder signs, activates or uses their Card or their Account, it will mean that we have received and read this Agreement and agree to and accept all of its terms.

We confirm that all information provided to you regarding the applicant's ownership, control and structure is true, complete and accurate in all respects.

We must promptly give you up-to-date credit and financially related information about us when you ask for it. The section headings in this Agreement appear only for ease of reference purposes. They do not form part of this Agreement.

3. **Account Opening/Card Issuance and Renewal:** You will open an Account for, and will issue a Card on that Account to, a Cardholder at our request or at the request of an Authorized Person made on a fully completed request form that you have prescribed for this purpose. For any Cardholder that is not responsible for the payment of any Debt under this Agreement, you will maintain a record of the name of the Cardholder only. We acknowledge and agree that we shall obtain the name, address, telephone number, and date of birth of such Cardholders and shall maintain a record of such information obtained for a period of 7 years. We agree to immediately provide such information to you if requested by you.

You will also issue renewal and replacement Cards (excluding an emergency replacement Card) to each Cardholder before the expiration date indicated on the Card last issued to them. You will continue to issue renewal and replacement Cards to a Cardholder in this way until we or the Cardholder tells you to stop. An emergency replacement Card will be issued by you to a Cardholder when required according to your customary operating procedures.

4. **Account and Card Use:** A Cardholder may use their Account and Card to obtain advances of money from you through Purchase transactions, Cash Advance transactions and other transactions you permit from time to time. The use of each Account and Card is governed by this Agreement. An Account and Card may only be used by the Cardholder in whose name it has been opened or issued. A Cardholder must not use their Card after the expiration date shown on it or after the termination of this Agreement. A Cardholder may not use their Card for any illegal, improper or unlawful purpose.

You reserve the right to refuse your authorization for certain types of transactions as determined by you.

5. **Account and Card Ownership:** You are the owner of each Account and Card. Neither we nor any Cardholder has the right to assign or transfer this Agreement, any Card or any Account to anyone else
6. **Lost or Stolen Card:** We or a Cardholder must tell you at once if the Cardholder's Card is lost or stolen or if we or the Cardholder suspects it is lost or stolen. We or the Cardholder may do this in the way you have set out on each Account Statement.

If a Cardholder's Card is lost or stolen, we will be liable to you for:

1. all Debt on the Cardholder's Account, up to a maximum of \$1,000.00, resulting from the loss or theft of their Card that is incurred before the time we or the Cardholder tells you about that loss or theft through any one or more transactions on the Cardholder's Account in which only their Card or Cardholder's Account number has been used to complete those transactions; and
2. all Debt resulting from the loss or theft of their Card that is incurred before the time we or the Cardholder tells you about that loss or theft through any one or more transactions on the Cardholder's Account in which their Card and Personal Identification Number have been used together to complete those transactions.

We will not be liable to you for any Debt resulting from the loss or theft of the Cardholder's Card that is incurred after the time we or the Cardholder tells you about that loss or theft.

7. **Card Cancellation/Revocation or Suspension of Use:** We may cancel a Cardholder's Account and Card for any reason (including, without limitation, the death of the Cardholder) by providing you with written notice of cancellation of that Account and Card. Subject to Section 6, we will be liable to you for all Debt, howsoever and by whomsoever incurred, resulting from the use of the Cardholder's Account or Card from the time we provide written notice of cancellation to you of the Cardholder's Card until the time we have notified you that the Card has been destroyed.

If the Debt outstanding in a Cardholder's Account exceeds the Credit Limit at any time, you may suspend the Cardholder's right to use their Account and Card and all services you provide to the Cardholder under this Agreement until such time as that excess is paid to you in full.

You may revoke or suspend a Cardholder's right to use their Account and Card at any time without notice. The Cardholder must also surrender their Card to us or to you at our (or your) request.

8. **Limits:** You will set an Aggregate Credit Limit for all Accounts and you may change it from time to time without notice.

If we consistently make late payments or no payments, you may reduce the Aggregate Credit Limit of all accounts. You will tell us what the initial Aggregate Credit Limit is at or before the time an Account is opened for a Cardholder under this Agreement. We will not permit the Debt we owe to you at any time to exceed the Aggregate Credit Limit. However, you may (but are not required to, even if you have done so before) permit that Debt to exceed the Aggregate Credit Limit you set from time to time.

You will set a Credit Limit for each Cardholder's Account and you may change the Credit Limit for a Cardholder's Account periodically. You will tell each Cardholder what their current Credit Limit is on the document accompanying their Card when you issue it to them and on each Account Statement. We will ensure that each Cardholder observes their Credit Limit. We will not permit the Debt we owe to you in respect to an Account at any time to exceed the Credit Limit for that Account. However, you may (but are not required to, even if you have done so before) permit that Debt to exceed that Credit Limit you set from time to time. We understand that the use of any Card and the Account may be suspended, at your discretion, if the Credit Limit is exceeded. An overlimit fee will be charged to an Account when you permit the Debt to exceed the Credit Limit of that Account during an Account Statement period. You may at any time refuse to permit the Debt to exceed the Credit Limit of an Account and require us to pay any balances which exceed the Credit Limit of an Account.

9. **Liability for Debt:** Subject to Sections 6. and 7., and except as may otherwise be provided under the Liability Waiver Program, we will be liable to you for all Debt charged to each Account, no matter how it is incurred or who has incurred it and even though you may send Account Statements to Cardholders and not to us. However, you will provide Account Statement or other information about that Debt to us at our request. You may apply any money we have on deposit with you or any of your affiliates against any Debt we have not paid to you as required under this Agreement without notice to us.

10. **Making Payments:** It is our responsibility to ensure that payment on each Cardholder's Account is received by you for credit to each Account by the Payment Due Date shown on each Account Statement, even if our Payment Due Date falls on a holiday or weekend.

Payments can be made on each Account at any time. Payment can be made by mail, at one of your branches, at an ATM that processes such payments through your telephone or online banking services or at certain other financial institutions that accept such payments. Even when normal postal service is disrupted, payments must continue to be made on each Account.

Payments do not automatically adjust the available Credit Limit. Payments on each Account made by mail or made through another financial institution's branch, ATM or online banking service may take several days to adjust the available Credit Limit. To ensure that a Payment is credited to a Cardholder's Account and automatically adjusts the available Credit Limit on the same business day, a Cardholder's payment must be made prior to 6:00pm local time on that business day at one of your branches or ATM's in Canada or through your telephone or online banking services.

We can also ask you to process our payment on each Payment Due Date each month by automatically debiting a bank account that we designate for that purpose. We may choose to pay the Minimum Payment, a fixed amount provided that it is not less than the Minimum Payment or our New Balance. If we ask you to automatically process payments in this manner, we agree to be bound by the terms and conditions set out in Rule H1 of the Rules of the Canadian Payments

Association, as amended from time to time. In addition, we agree to waive any pre-notification requirements that exist where variable payment amounts are being authorized. We may notify you at any time that we wish to revoke our authorization and a pre-authorized payment may, under certain circumstances, be disputed for up to 90 days. The Rules are available for us to review at [www.cdnpay.ca](http://www.cdnpay.ca).

11. **Payment of Debt:**

a. Subject to sub-Sections 11(b), 11(c) and Section 20., we may pay the Debt we owe to you in respect to each Cardholder's Account in full or in part at any time.

b. Subject to Subsection 11.c. and Section 20., we must make a payment of the lesser of \$10.00 plus interest plus Fees as shown on the current Account Statement and our New Balance by the Payment Due Date shown in order to keep the Account up to date. Any pastdue amounts will continue to be included in our Minimum Payment amount.

c. We must also pay the amount of any Debt that exceeds the Credit Limit for a Cardholder's Account at once to keep that Account up-to-date. We must pay this excess even though you may not yet have sent an Account Statement to the Cardholder on which that excess appears.

d. We must keep each Cardholder's Account up-to-date at all times even when you are delayed in or prevented from sending, for any reason, any one or more Account Statements to Cardholders. We must contact your Card Centre identified on Account Statements at least once a month during such a delay or interruption to obtain any payment information we do not have and need to know in order for us to comply with our obligations under this Section.

e. If any payment made by us in respect of a Cardholder's Account is not honoured, or if you must return it to us because it cannot be processed, the applicable fee will be charged under Section 14., and Card privileges may be revoked or suspended by you under Section 7.

f. If the New Balance on a Cardholder's previous Account Statement is paid in full by the Payment Due Date, the Grace Period for the Cardholder's current Account Statement will continue to be the minimum number of days applicable to the Card (21 days for Visa Classic and 17 days for Visa Avion®). If the previous New Balance on a Cardholder's Account Statement is not paid in full by the Payment Due Date, the Cardholder's Payment Due Date will be extended to 25 days from the Statement Date regardless of the type of Visa Card held by the Cardholder.

12. **Interest Charges:**

a. *Interest-Free Purchases and Interest-Free Fee:* We will not pay interest on the amount of any Purchase or Fee appearing on an Account Statement for the first time provided that all Debt shown on that Account Statement is paid in full by that Account Statement's Payment Due Date and all Debt shown on the preceding Account Statement was also paid in full by that preceding Account Statement's Payment Due Date.

b. *Interest-Bearing Balance:* We will pay interest on the Interest-Bearing Balance at the Interest Rates in effect in the manner described below and in sub-Section 12.(c):

You will charge us interest:

- i. on the amount of each Interest-Bearing Purchase and Interest-Bearing Fee from (and including) the transaction date recorded for them on the Account Statement where they appeared for the first time to the day you receive payment in full of the Interest-Bearing Balance; and
- ii. on the amount of each Cash Advance (including Credit Card Cheques) from (and including) the day they are obtained to the day you receive payment in full of the Interest-Bearing Balance.

**c. Interest Calculation:** The interest you charge on the Interest-Bearing Balance accrues daily.

You will calculate the interest on the Interest-Bearing Balance made up of Cash Advances by multiplying this Interest-Bearing Balance outstanding on any day by the Interest Rate (Cash Advances and Credit Card Cheques) in effect and dividing the result by the number of days in the year. You will calculate the interest on the Interest-Bearing Balance made up of Interest-Bearing Purchases and Interest-Bearing Fees by multiplying this Interest-Bearing Balance outstanding on any day by the Interest Rate (Interest-Bearing Purchase and Interest-Bearing Fee) in effect and dividing the result by the number of days in the year.

You will post the interest we owe on the Interest-Bearing Balance for the period covered by an Account Statement to the Account at the end of that period. Since the interest you charge on the Interest-Bearing Balance accrues daily up to the time you receive a payment of the Debt, the final interest charge on the Interest-Bearing Balance for that period can only be calculated and included on the Account Statement that shows the payment.

13. **Payment Allocation:** When we make a payment you will apply the amount up to our Minimum Payment, first to any interest and second to any fees. You will apply the remainder of any Minimum Payment to our New Balance, generally starting with amounts bearing the lowest interest rate before amounts bearing higher interest rates.

If we pay more than our Minimum Payment, you will apply the amount over the Minimum Payment to the remainder of our New Balance. If the different amounts that make up our New Balance are subject to different interest rates, you will allocate our excess payment in the same proportion as each amount bears to the remainder of our New Balance. If the same interest rate is applicable to both a cash advance (which never benefits from an interest-free grace period) and a purchase, you will apply our payment against the cash advance and the purchase in a similar proportionate manner. If we have paid more than our New Balance, you will apply any payment in excess of the New Balance to amounts that have not yet appeared on our monthly statement in the same manner as set out above.

Credits arising from returns or adjustments are generally first applied to transactions of a similar type, second to any interest and fees, and the remainder to other amounts owing in the same manner as you apply payments in excess of the Minimum Payment.

Unless you otherwise agree, any payment must be made in money which is legal tender at the time of payment. As well, the mere lapse of the time fixed for performing an obligation under this Agreement will have the effect of putting us in default of it.

14. **Fees:** We must pay all Fees. You will charge them to the Cardholder's Account at the time they are incurred.
15. **Banking Machines:** A Cardholder may use their Card together with their Personal Identification Number to make transactions on their Account at those banking machines and terminals you operate and at any other banking machines or terminals you designate from time to time, subject to the Cardholder's agreement with you governing the use of their Personal Identification Number.
16. **Debt Incurred Without a Card:** If a Cardholder incurs Debt without having presented their Card to a merchant (such as for internet, mail order or telephone Purchase), the legal effect will be the same as if the Cardholder had used their Card and signed a Purchase or Cash Advance draft.
17. **Transfer of Your Rights:** You may transfer any or all of your rights under this Agreement and the Disclosure Statement, by way of assignment, sale or otherwise. If you do so, you can give information concerning the Account to anyone you transfer your rights to, but will ensure that they are bound to respect our privacy rights in that information.
18. **Changes to Disclosure Statement:** You may change the Interest Rates and Fees for each Cardholder's Account and this Agreement set out or referred to in the Disclosure Statement periodically. We will be given at least thirty (30) days prior written notice of each change, directed to our address last appearing on your records. If any Card is used or any Debt remains unpaid after the effective date of a change, it will mean that we have agreed to the change.
19. **Changes to Agreement:** You may change this Agreement periodically. Subject to Section (8), we will be given at least thirty (30) days prior written notice of each change, directed to our address last appearing on your records. If any Card is used or any Debt remains unpaid after the effective date of a change, it will mean that we have agreed to the change.  
  
The benefits and services you provide to Cardholders are subject to terms and conditions which may be amended by you from time to time without notice to us or any Cardholder.
20. **Termination:**
  1. You or we may terminate this Agreement at any time by giving written notice of termination to the party(ies) to be bound by that written notice. You must direct your written notice to our address last appearing on your records. Our written notice must be directed to your address appearing on the last Account Statement you have sent to Cardholders.
  2. The occurrence of any one of the following events has the effect of putting us in default and you may terminate this Agreement at once without giving us any notice, if:
    1. You or we may terminate this Agreement at any time by giving written notice of termination to the party(ies) to be bound by that written notice. You must direct your written notice to our address last appearing on your records. Our written notice must be directed to your address appearing on the last Account Statement you have sent to Cardholders.
    2. The occurrence of any one of the following events has the effect of putting us in default and you may terminate this Agreement at once without giving us any notice, if:

- a. we become insolvent or bankrupt,
- b. someone files a petition in bankruptcy against us,
- c. we make an unauthorized assignment for the benefit of our creditors,
- d. we institute, or someone else institutes, any proceedings for the dissolution, liquidation or winding up of our affairs,
- e. we institute, or someone else institutes, any other type of insolvency proceeding involving our assets under the Bankruptcy and Insolvency Act or otherwise,
- f. we cease or give notice of our intention to cease to carry on business or make or agree to make a bulk sale of our assets without complying with applicable laws or we commit an act of bankruptcy,
- g. we fail to pay any Debt or to perform any other obligation to you as required under this Agreement,
- h. we make any statement or representation to you that is untrue in any material respect when made, or
- i. there is, in your opinion, a material adverse change in our financial condition.

3. Upon termination of this Agreement, we must pay all Debt for each Account to you at once and ensure that each Cardholder destroys their Card and returns any unused Credit Card Cheques. If we fail to comply with our obligations to you under this Agreement, we will be liable to you for:

- a. all court costs and reasonable legal fees and expenses (on a solicitor-client basis) you incur through any legal process to recover any Debt, and
- b. all costs and expenses you incur in reclaiming any Card.

21. **RBC Rewards®:** If a Card allows us to earn RBC Rewards points which can be redeemed for merchandise, travel and other rewards, we acknowledge that our participation in the RBC Rewards program is subject to the RBC Rewards Terms and Conditions. The RBC Rewards Terms and Conditions are available for review at [www.rbc Rewards.com](http://www.rbc Rewards.com) and are subject to change without notice.

22. **Special Offers (Introductory and Promotional Interest Rates):** You may make special offers to us from time to time, including Introductory Interest Rate and other Promotional Interest Rate offers that temporarily lower the interest rate applicable to portions of our balance, such as when we make certain types of Cash Advances.

You sometimes make Introductory Interest Rate offers which apply to new Accounts only. For example, you could offer a low Introductory Interest Rate applicable to certain transactions for a limited period of time, such as a 3.9% Introductory Interest Rate on all Cash Advances for the first 9 months.

A Promotional Interest Rate offer is an offer you may periodically make to us and that applies to our Card after our Account has been opened. For example, you could offer us a low Promotional Interest Rate applicable on certain transactions for a limited period of time, such as a 3.9% Promotional Interest Rate on Credit Card Cheques for 9 months.

If you make us a special offer, you will explain its scope

and duration and any additional terms that apply to it. If we accept the special offer by using the Credit Card Cheques or otherwise taking advantage of the special offer, we will be bound by this Agreement and any additional terms you set out in the offer. When the promotion expires, the special offer terms will end and the terms and conditions of this Agreement will continue to apply, including those related to interest and payments. Our monthly statement will set out any Introductory Interest Rate(s) or Promotional Interest Rate(s) that apply to our New Balance, any remaining balances associated with those rates, and when those rates expire. If any expiry date falls on a date for which you do not process statements (for example, weekends and certain holidays), you will continue to provide us with the benefit of that Introductory Interest Rate or Promotional Interest Rate until your next statement processing day.

23. **Problems With a Purchase:** You will not be responsible for any problem a Cardholder has with any Purchase. If the Cardholder has a problem or dispute with a merchant regarding a Purchase, we must still pay all Debt as required by this Agreement and settle the problem or dispute directly with the merchant.

You will not be responsible if a Card is not honoured by a merchant at any time and for any other problem or dispute a Cardholder may have with a merchant. As well, you reserve the right to deny authorization of any Purchase at any time.

24. **Account Statements, Verification and Disputes:** You will send Account Statements to each Cardholder, directed to the Cardholder's address last provided to you by the Authorized Person. You will prepare our Account Statements at approximately the same time each month. If the date on which you would ordinarily prepare our Account Statements falls on a date for which you do not process statements (for example, weekends and certain holidays), you will prepare our Account Statements on your next statement processing day. Our Payment Due Date will be adjusted accordingly. We will ensure that each Cardholder promptly examines all of their Account Statements and each entry and balance recorded in them. We will notify you in writing of any errors, omissions, or objections to an Account Statement, or an entry or balance recorded in it, within thirty (30) days from the Statement Date recorded on that Account Statement.

If we do not notify you as required, you are entitled to treat the above Account Statements, entries and balances as complete, correct and binding on us and you will be released from all claims by us in respect of those Account Statements, entries and balances.

You may use a microfilm, electronic or other reproduction of any Purchase or Cash Advance draft or other document evidencing Debt to establish our liability for that Debt. Upon request, you will provide a microfilm, electronic or other reproduction within a reasonable time frame of any Purchase or Cash Advance draft or other document evidencing the Debt.

If the item is a legitimate charge to the Cardholder's Account and the dispute is between the Cardholder or us and the merchant, we must still pay the Debt owing to you and settle the problem or dispute directly with the merchant. If the item is not a legitimate charge, you will return the item to the merchant and credit the Cardholder's Account.

25. **Authorized Person:** Upon signing this Agreement, we may designate one or more individuals as an Authorized Person who is authorized to act on our behalf and who may assist us in the administration of this Agreement.
26. **Exchange of Information Between You and Us:** Information about a Cardholder's use of their Account and Card, and pertinent information about any reimbursement of Debt received by the Cardholder from us, Cardholder employment status and location, and any other related Cardholder tracking information may be exchanged between you and us.
27. **Electronic Communication:** We acknowledge and agree that you may provide Account Statements, this Agreement or other document relating to a Cardholder's Account electronically including over the Internet or to an email address we provide you for this purpose, with our consent. Documents sent electronically will be considered "in writing" and to have been signed and delivered by you. You may rely on and consider any electronically authenticated document received from us or which appears to have been received from us as authorized and binding on us. In order to communicate with you by electronic means, we agree to comply and require each Cardholder to comply with certain security protocols that you may establish from time to time and to take all reasonable steps to prevent unauthorized access to any Account Statement and any other documents exchanged electronically.
28. **Collection, Use and Disclosure of Information:**

For purposes of this Section: (i) "Customer" means the person or entity which has signed this Agreement, its Representatives and its owners; and (ii) "Representatives" mean directors, officers, employees, signing authorities, agents, contractors, subcontractors, service providers, consultants, internal or external auditors, legal or other professional advisors.

This Section describes how you collect, use and disclose Customer information in connection with this Agreement.

#### I. Collecting Information

You may collect and confirm financial and other information about Customer during the course of your relationship with Customer, including information:

- i. establishing Customer's existence, identity (for example, name, address, phone number, date of birth, etc.) and background;
- ii. related to transactions arising from Customer's relationship with and through you, and from other financial institutions;
- iii. provided on any application for products or services;
- iv. for the provision of products or services; and
- v. about Customer's financial behaviour, including payment history and credit worthiness.

You may obtain this information from any source necessary for the provision of products or services, including from: (i) Customer; (ii) service arrangements made with or through you; (iii) credit reporting agencies; (iv) other financial institutions; (v) registries; and (vi) references provided to you.

Customer acknowledges receipt of notice that from time to time reports about Customer may be obtained by you from credit reporting agencies.

## II. Using Information

All information collected by, and provided to you may be used and disclosed for the following purposes:

- i. to verify Customer's identity and investigate its background;
- ii. to open and operate the Accounts or provide other products and services;
- iii. to understand Customer's financial situation;
- iv. to determine, and make decisions about, the eligibility of Customer or Customer's affiliates for the products and services;
- v. to help you better understand the current and future needs of your clients;
- vi. to communicate to Customer any benefit, feature or other information about products and services;
- vii. to help you better manage your business and your relationship with Customer;
- viii. to operate the payment card network;
- ix. to maintain the accuracy and integrity of information held by a credit reporting agency; and
- x. as required or permitted by law.

For these purposes, you may (i) share the information with other persons, including your Representatives and regulators; (ii) share the information with other financial institutions and persons with whom Customer has financial or other business dealings; and (iii) give credit, financial and other related information to credit reporting agencies who may share it with other persons. In the event information is used or shared in a jurisdiction outside of Canada, the information will be subject to, and may be disclosed in accordance with, the laws of such jurisdiction. At Customer's request, you may give the information to other persons.

You may also use the information and share it with your affiliates to: (i) manage your risks and operations and those of your affiliates; (ii) comply with valid requests for information from regulators, government agencies, public bodies or other entities who have a right to issue such requests; and (iii) let your affiliates know Customer's choices under "Other Uses" below for the sole purpose of honouring Customer's choices.

If you have Customer's social insurance number, it may be used for tax related purposes and shared with appropriate government agencies, and may also be shared with credit reporting agencies for identification purposes.

#### III. Other Uses

All information collected by, and provided to you may also be used and disclosed for the following purposes:

- i. promoting products and services that may be of interest;
- ii. where not prohibited by law, referring Customer to your affiliates and for your affiliates to promote products and services that may be of interest. Customer acknowledges that as a result of such sharing, you and your affiliates may advise each other of the products or services provided; and
- iii. if Customer deals with your affiliates, you and your affiliates may, where not prohibited by law, consolidate all of the information you have with information any of your affiliates has about

Customer in order to manage the business of, and relationships with, you and your affiliates.

For the purposes described in subsections (i) and (ii), you and your affiliates may communicate with Customer through various channels, including mail, telephone, computer or any other electronic channel, using the most recent contact information provided.

Customer may choose not to have this information shared or used for any of these "Other Uses" by contacting you, and Customer will not be refused credit or other services just for this reason.

#### IV. Online Activity

Online activity information may also be collected in public and secure websites owned or operated by you or on behalf of you or your affiliates, or in any of your advertisements hosted on another person's websites, using cookies and other tracking technology, and used with other information about the Customer to assess the effectiveness of online promotions, to gather data about website functionality, to understand its interests and needs, to provide a customized online experience, and to communicate to the Customer information about the products or services. The Customer may choose not to have this information collected or used for the online personalization purposes described in this Section by contacting you.

#### V. Contacting You

Customer may obtain access to personal information you have about any of them at any time, including to review its content and accuracy and have it amended as appropriate, except to the extent access may be restricted as permitted or required by law. To request access to personal information or to request that Customer's information not be used for "Other Uses", Customer will contact Customer's main branch or call you toll free at 1-800 ROYAL® 1-1 (1-800-769-2511). More information about your privacy policies may be obtained by asking for a copy of the "Financial fraud prevention and privacy protection" brochure, calling the toll free number above or visiting your website at [www.rbc.com/privacysecurity/ca/](http://www.rbc.com/privacysecurity/ca/).

#### VI. Personal Information

The parties will treat all personal information in accordance with applicable laws. From time to time, you may request the Customer to take steps, including the entering into of additional documents, to ensure the protection of personal information and compliance with all applicable laws. The Customer will promptly comply with these requests.

#### VII. Other Persons

You are not responsible for any loss that occurs as a result of any use, including any unauthorized use, of information by any person, other than you and your Representatives to the extent agreed by you in this Agreement.

#### VIII. Consents, etc.

The Customer confirms that any necessary consent, approval, or authorization of any person has been obtained for the purposes of collecting, using, and disclosing their information in accordance with this Agreement and applicable laws.

#### IX. Additional Consent

The Customer's consents and agreements in this Agreement are in addition to any other consent, authorization, or preference of the Customer regarding the collection, use, disclosure, and retention of information.

#### X. Your Information

The Customer will use the products and services and your confidential information only for the purposes they are provided by you, and will ensure that your confidential information is not disclosed to any person except: (i) the Customer's Representatives who need to know such confidential information in connection with the products and services, provided that such Representatives are informed of the confidential nature of such confidential information and agree to treat same in accordance with terms substantially the same as in this Agreement; (ii) to the extent legally required, provided that, if not legally prohibited, the Customer will notify you in writing prior to any such disclosure; (iii) in accordance with this Agreement; or (iv) as otherwise agreed in writing by you.

#### XI. Remedies

In the event of a breach or anticipated breach by a party or its Representatives of the confidentiality obligations under this Agreement, irreparable damages may occur to the other party and the amount of potential damages may be impossible to ascertain. Therefore, a party may, in addition to pursuing any remedies provided by applicable laws, seek to obtain equitable relief, including an injunction or an order of specific performance of the other party's confidentiality obligations under this Agreement.

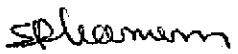
29. **Liability Waiver Program:** The Liability Waiver Program applies to this Agreement and is made available at no cost to us. We may request you to waive, in accordance with the Liability Waiver Program, our liability under Section 9. for certain unauthorized charges posted to a Cardholder's Account. We agree to abide by the provisions of the Liability Waiver Program as in effect from time to time.
30. **Counterparts:** This Agreement may be executed in any number of counterparts, each of which when executed and delivered will be deemed to be an original, and those counterparts together will constitute one and the same agreement.
31. **Governing Law:** This Agreement shall be governed by the laws of our jurisdiction (or the laws of Ontario if we reside outside Canada) and the applicable laws of Canada.
32. **Complete Agreement, etc.:** This Agreement constitutes the complete agreement between you and us with respect to the subject matter hereof. No failure on your part to exercise, and no delay by you in exercising, any right under this Agreement will operate as a waiver thereof; nor will any single or partial exercise by you of any right under this Agreement preclude any other or further exercise thereof, or the exercise of any other right, by you under this Agreement.



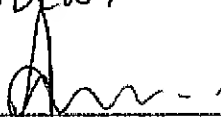
Signed as of the 11<sup>th</sup> day of February 2019  
Month Year

2668144 ONTARIO INC.

Customer Legal Name

Per:  \*  
Name: SHAKIVE RAHAMAN  
Title: PRESIDENT

Per: \_\_\_\_\_ \*  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Per:  \*  
Name: ASMINUR RAHAMAN  
Title: DIRECTOR

Per: \_\_\_\_\_ \*  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(\* I / WE have authority to bind the Corporation.)

## DISCLOSURE STATEMENT

1. **General:** This Disclosure Statement applies to the Account and each Card you have issued on the Account.

2. **Interest Rates:** The Interest Rates are set out on each Account Statement. They are expressed as annual percentage rates.

3. **Annual Fee\*\*:**

**Visa Business:** \$12.00 for each Visa Business Card.

**Visa Business Gold:** \$40.00 for each Visa Business Gold Card.

**Visa Business Platinum Avion®:** \$120.00 for the first Visa Business Platinum Avion Card opened and \$50.00 for each supplementary Visa Business Platinum Avion card opened by you.

\*\* Annual fees are not refundable

4. **Other Fees:** The following schedule of fees applies to the Account:

**A. Cash Advance Fee:** When we obtain the following types of Cash Advances at our standard Interest Rate (Cash Advances including Credit Card Cheques) or at an Introductory Interest Rate, a \$3.50 fee for each transaction will be charged to our Account, unless otherwise stated:

(i) cash withdrawals from our Account at one of your branches or ATMs, or at any other financial institution's ATM, in Canada;

(ii) bill payments from our Account (that are not pre-authorized charges that we set up with a merchant) or when we transfer funds from our Account to another RBC Royal Bank bank account at one of your branches or ATMs, or through your online banking or telephone banking service;

(iii) when we make Cash-Like transactions, in Canada.

If the cash withdrawal or Cash-Like transaction occurs outside Canada, a \$5.00 fee will be charged to our Account each time.

Fees are charged within 3 business days from when the transaction is posted.

There is no fee if we are using a Credit Card Cheque at our standard Interest Rate (Cash Advances including Credit Card Cheques) or Introductory Interest Rate.

**B. Promotional Rate Fee:** When we take advantage of a Promotional Interest Rate offer during the promotional period by writing a Credit Card Cheque or making a balance transfer through your online banking service or by calling your Cards Customer Service at 1-800 ROYAL® 1-2 (1-800-769-2512), a fee representing up to 3% of the Credit Card Cheque or balance transfer amount will be charged to our Account.

The exact Promotional Rate Fee will be disclosed at the time the offer is made to us. Fees are charged within 3 business days from when the transaction is posted.

**C. Dishonoured Payment Fee:** If a payment is not processed because a financial institution returns a cheque or refuses a pre-authorized debit, a \$45.00 fee will be charged to the Account on the date the payment reversal is posted. This fee is in addition to any fee charged for insufficient funds in the bank account.

**D. Statement Update Fee:** No charge for a copy of Account Statement for a current statement period; \$5.00 for a copy of Account Statement for any other statement period. A \$1.50 fee will be charged for each Account Statement update obtained from one of your branches in Canada or at a banking machine that provides Account Statement updates.

**E. Sales/Cash Advance Draft Copy Fee:** No charge for a copy of a sales or Cash Advance draft referred to in the Account Statement for the current statement period; \$2.00 for each copy of a sales or Cash Advance draft referred to in the Account Statement for any other statement period. (No charge for any draft copy to which an Account posting error applies.)

**F. Overlimit Fee:** If the Debt exceeds the Credit Limit at any time during the period covered by an Account Statement, a \$29.00 fee will be charged to the Account on the day the Debt exceeds the Credit Limit and on the first day of each subsequent Account Statement period if the Debt remains over the limit. A maximum of one Overlimit Fee per Account Statement period is charged.

5. **Foreign Currency Conversion:** The exchange rate shown on our Statement, to six decimal places, is calculated by dividing the converted Canadian dollar (CAD) amount, rounded to the nearest cent, by the transaction currency amount. It may differ from the original benchmark rate because of this rounding. The CAD amount charged to our account is 2.5% over the benchmark rate. Some foreign currency transactions are converted directly to CAD, while others may be converted first to U.S. dollars, then to CAD; In either case, the benchmark rate will be the actual exchange rate applied at the time of the conversion, and is generally set daily. The original benchmark rate at the time a transaction was converted may be obtained at [usa.visa.com/support/consumer/travel-support/exchange-rate-calculator.html](http://usa.visa.com/support/consumer/travel-support/exchange-rate-calculator.html). If we are paying interest on our Account, interest will also be charged on the full value of our foreign purchases, as determined by your exchange rate. For more information, please call toll-free at 1-800 ROYAL® 1-2 (1-800-769-2512).



**Royal Bank**

**RBC Royal Bank® Liability Waiver Insurance Certificate**

This certificate is a valuable source of information. Please keep it in a safe place.

**What is RBC Royal Bank Liability Waiver Insurance?**

The RBC Royal Bank Liability Waiver Insurance program allows **Eligible Companies** that have entered into an agreement with Royal Bank of Canada ("Royal Bank") for the establishment of business and/or commercial **Card** accounts and the issuance of **Cards** to request Royal Bank to waive the **Eligible Company's** liability for certain **Unauthorized Charges** made by its **Cardholders**.

**Who Provides this Insurance?**

This insurance is provided by Royal & Sun Alliance Insurance Company of Canada (the "Insurer"). The policy number is PS1048575914 (the "Policy").

**What is the Maximum Amount of Insurance?**

The RBC Royal Bank Liability Waiver Insurance program will waive the **Eligible Company's** liability for **Unauthorized Charges** up to \$100,000 CAD per **Card**, subject to the terms, conditions, limitations and exclusions in this Certificate.

**Definitions**

"**Affidavit of Waiver**" means a written request sent to Royal Bank by mail or fax from the **Eligible Company** requesting Royal Bank to waive the **Unauthorized Charges** in accordance with the terms and conditions of this program.

"**Card**" means an RBC® Visa® Business, RBC Visa Business Platinum Avion®, RBC Visa Business Gold, RBC Commercial Avion Visa, RBC Commercial Cash Back Visa, RBC Commercial Visa, RBC Commercial U.S. Dollar Visa issued by Royal Bank to a **Cardholder**.

"**Cardholder**" means the designated employee of an **Eligible Company** to whom a **Card** has been issued by Royal Bank, who is over 18 years of age, residing in Canada and who is authorized to use the **Card** for business purposes, in accordance with the **Eligible Company's** internal policies. The **Eligible Company** will not request any person to receive a **Card** on any of its present or future accounts if that person has been named at any time by the **Eligible Company** in an **Affidavit of Waiver**.

"**Charges**" means the amounts, billed or unbilled, including purchases and cash advances, charged to a **Card**.

"**Date of Notification of Employment Termination**" means the date the **Eligible Company** gives or receives a written notice of immediate or pending employment termination of a **Cardholder** or the date on which the **Cardholder** leaves the **Eligible Company's** service, whichever is earlier, or if the **Cardholder** is a member of a bargaining unit of a union and the employer contract includes grievance procedures, the date the **Eligible Company** files a grievance with the labour arbitrator recommending the **Cardholder's** employment be terminated.

"**Eligible Company**" means a corporation, partnership, sole proprietorship or any other entity which has entered into an agreement with Royal Bank for the establishment of **Card** accounts and the issuance of **Cards**, if such agreement is still active and in force.

"**RBC**" shall mean Royal Bank of Canada.

"**Waiver Date**" is the date on the **Affidavit of Waiver** sent from the **Eligible Company** to Royal Bank.

**What are Unauthorized Charges?**

A. "**Unauthorized Charges**" are **Charges** to a **Cardholder's Card**

incurred by a **Cardholder**:

- a) which are not made in accordance with the **Eligible Company's** internal policies and/or which do not benefit the **Eligible Company** directly or indirectly, in whole or in part; or
- b) for which the **Eligible Company** has reimbursed the **Cardholder** but the **Cardholder** has not paid Royal Bank.

Provided that such **Unauthorized Charges**:

- i) are billed within the seventy-five (75) days preceding the **Date of Notification of Employment Termination**, or preceding the date Royal Bank receives the request from the **Eligible Company** to cancel the **Card** on which **Unauthorized Charges** were incurred;
- ii) are unbilled up to fourteen (14) days after Royal Bank has received a request to cancel the **Card** but were incurred prior to such request being received and provided the **Eligible Company** must have notified Royal Bank within two (2) business days of the **Date of Notice of Employment Termination**;
- iii) are discovered no later than 75 days after the termination of:
  - a) the **Policy**; or
  - b) the insurance in respect of the **Eligible Company**; whichever occurs first.

B. Auditors fees incurred with the Insurer's written consent solely to substantiate the amount of the claim are covered.

**What are Not Waivable Charges?**

The following **Charges** are excluded and not covered by this **Policy**, whether they are **Unauthorized Charges** or authorized **Charges**.

1. **Charges** made by partners, owners, or principal shareholders who own more than five percent (5%) of the **Eligible Company's** outstanding shares, or persons who are not employees of the **Eligible Company** at the time **Charges** were incurred.
2. Interest or fees imposed by Royal Bank on outstanding unpaid **Charges**.
3. In cases where Royal Bank invoices the **Cardholder**, any amount on a cheque submitted by a **Cardholder** which is not paid by the **Cardholder's** financial institution, if the **Cardholder** has, within the last twelve (12) months, submitted any other cheque to Royal Bank which was not paid by the **Cardholder's** financial institution.
4. **Charges** to purchase goods or services for the **Eligible Company** or bought for someone else if instructed or approved by the **Eligible Company** will not be covered. However, these **Charges** will be covered if Royal Bank bills the **Cardholder** directly, where the **Eligible Company** has reimbursed the **Cardholder** and the **Cardholder** has not paid Royal Bank.
5. **Charges** billed by the **Cardholder** more than fourteen (14) days after **Date of Notification of Employment Termination**.
6. **Charges** billed by the **Cardholder** more than fourteen (14) days after Royal Bank receives the request from the **Eligible Company** to cancel the **Card**.
7. **Charges** billed on or after the **Date of Notification of Employment Termination** if such **Notification of Employment**

Termination was not sent to Royal Bank within two (2) business days of the Date of Notification of Employment Termination.

8. Charges billed if the Eligible Company has not notified Royal Bank in writing to cancel the Card within two (2) business days of the Eligible Company's intention to cancel the Card or given notice to the Cardholder to stop using the Card or cancels the Card in accordance with the cancellation policy with Royal Bank.
9. Charges resulting from either a lost or stolen Card or Charges to a Card which is closed, frozen or ninety (90) or more days delinquent.
10. Cash advances after the Date of Notification of Employment Termination or immediately after Royal Bank receives the request by the Eligible Company to cancel the Card, in excess of \$300.00 per day per Cardholder, or a maximum of \$1,000.00 per Cardholder, whichever is less.
11. Any interest on money owing.

#### What are the Responsibilities of the Eligible Company?

**Notification to Royal Bank.** The Eligible Company may request Royal Bank to waive the Eligible Company's liability for Unauthorized Charges only if the Eligible Company meets all of the following requirements:

1. The Eligible Company must use its best efforts to retrieve the Card from the Cardholder and notify Royal Bank in writing to cancel the Card within two (2) business days of:

- (i) the Date of Notification of Employment Termination; or
- (ii) the Eligible Company's intention to cancel the Card and/or notice to the Cardholder to stop using the Card; and

such letter must state:

- (i) If applicable, that the Cardholder's employment has terminated and the Date of Notification of Employment Termination.
- (ii) If applicable, that the Card is cancelled or no longer authorized.
- (iii) The Cardholder's name, home address and, if the Cardholder's employment was terminated, the last known business addresses and Card number.
- (iv) If the Card was retrieved from the Cardholder and, if so, the date it was retrieved and confirmation that such Card is still in the Eligible Company's possession or is enclosed therein.
- (v) The Eligible Company requests the waiver of Unauthorized Charges.

**Notification to Cardholder.** In cases where Royal Bank sends its statements directly to the Cardholder, the Eligible Company must deliver to the Cardholder or send, by first-class mail in writing, a notice stating the Cardholder's right to use the Card has been cancelled, and instruct the Cardholder to:

- (i) immediately discontinue all use of that Card;
- (ii) immediately pay any outstanding Charges to Royal Bank; and
- (iii) immediately return the Card to the Eligible Company.

If the Eligible Company knows that a Cardholder is receiving reimbursement for Charges but is not paying Royal Bank for those Charges, the Eligible Company must promptly give written notice to Royal Bank.

#### How To Make a Claim

1. An authorized official of the Eligible Company must send an "Affidavit of Waiver" to Royal Bank in writing by mail or fax. The Affidavit of Waiver must be sent within thirty (30) days of the employee's Notification of Employment Termination or the date of the Eligible Company's intention to cancel the Card.
2. All claim documents must be filed with the insurer within six (6) months from the employee's Date of Notification of Employment Termination.

#### Inquiries

Please direct any claim inquiries to:

Royal & Sun Alliance Insurance Company of Canada  
Attention: Claims Management Services  
2225 Erin Mills Parkway, Suite 1000  
Mississauga, Ontario  
L5K 2S9

Within the Toronto Region telephone (905) 412-2015  
Outside the Toronto Region telephone 1-866-832-1354

Please refer to the program and the Policy number.

#### Recovery

1. If the Eligible Company recovers any amounts for Unauthorized Charges from any source after the Eligible Company has filed an Affidavit of Waiver with Royal Bank, the Eligible Company will remit all such amounts to Royal Bank. The Eligible Company agrees to assign any rights it may have to collect such amounts from the Cardholder to Royal Bank. The Eligible Company agrees to assign any rights it may have to collect such amounts from the Cardholder to the Insurer.
2. Royal Bank agrees to forward any recovered amounts to the Insurer, if the Insurer has already reimbursed Royal Bank for the Unauthorized Charges.

#### Other Insurance

This program does not cover losses that are covered by other insurance, and/or, losses that would have been paid if this program did not exist. Losses that are above those covered by other insurance as noted, but less than the limit of this coverage, are eligible for payment.

This certificate is not a contract of Insurance. It contains only a summary of the principal provisions of the Policy. In the event of any conflict between the description of coverage in this certificate and the Policy, the Policy will govern.

#### Termination

Coverage under this Policy will automatically terminate on the earliest of the following:

- 1) the date the Eligible Company's agreement with Royal Bank for the establishment of Card accounts and the issuance of Cards is cancelled; or
- 2) the date the Policy terminates; or
- 3) thirty (30) days after the date of written request for cancellation by Royal Bank.

#### Misstatement

Any fraud, misstatement or concealment by the Eligible Company either in regard to any matter affecting this insurance or in connection with the making of a claim shall render this insurance null and void.

#### Currency


All claims will be paid in Canadian dollars.

® / ™ Trademark(s) of Royal Bank of Canada. RBC and Royal Bank are registered trademarks of Royal Bank of Canada.

‡ All other trademarks are the property of their respective owner(s).

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This is Exhibit "C" referred to  
in the Affidavit of Michael Foster  
Sworn this 30<sup>th</sup>  
day of June, 2023.

  
Rachel Moses (Jul 4, 2023 08:10 EDT)

.....  
A Commissioner for Taking Affidavits

Rachel Moses / LSO# 42081V

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**Royal Bank of Canada**  
 Commercial Financial Services  
 9300 Bathurst St- 2<sup>nd</sup> Floor  
 Maple, ON L6A 4N9

January 24, 2022

**Private and Confidential**

**2668144 ONTARIO INC.**

104 Rothwell Gardens  
 Peterborough, ON  
 K9H 0G8

ROYAL BANK OF CANADA (the “**Bank**”) hereby offers the credit facilities described below (the “**Credit Facilities**”) subject to the terms and conditions set forth below and in the attached Terms & Conditions and Schedules (collectively the “**Agreement**”). Any and all security that has been delivered to the Bank and is set forth as Security below, shall remain in full force and effect, is expressly reserved by the Bank and, unless expressly indicated otherwise, shall apply in respect of all obligations of the Borrower under the Credit Facilities. This Agreement is in addition to our agreement dated June 22, 2021, as amended, superseded, restated or replaced from time to time. Unless otherwise provided, all dollar amounts are in Canadian currency.

The Bank reserves all of its rights and remedies at any time and from time to time in connection with any or all breaches, defaults or Events of Default now existing or hereafter arising under this Agreement or any other agreement delivered to the Bank, and whether known or unknown, and this Agreement shall not be construed as a waiver of any such breach, default or Event of Default.

**BORROWER:** 2668144 Ontario Inc. (the “**Borrower**”)

**CREDIT FACILITIES**

**Facility #1:** \$100,000.00 non-revolving term facility by way of:

a) Fixed Rate Term Loans (“**FRT Loans**”) Interest rate (per annum): 4.00%

**AVAILABILITY**

This term facility is made possible under Business Development Bank of Canada’s (“**BDC**”) Highly Affected Sectors Credit Availability Program (“**HASCAP**”) and is subject to the terms and conditions set forth herein and in Schedule “N” attached hereto. Hereafter, this facility may be referred to as the “**BDC HASCAP Facility**”.

The Borrower may borrow up to the amount of this term facility provided this facility is made available at the sole discretion of the Bank and the Bank may cancel or restrict availability of any unutilized portion of this facility at any time from time to time without notice.

Notwithstanding the foregoing and without limiting the Bank’s right to cancel or restrict availability under this facility at any time, if the Borrower does not borrow under this facility on or before June 30, 2022, the Bank may, at its sole discretion, cancel this facility and the Bank will be under no obligation to advance any funds hereunder.

**REPAYMENT**

The Borrower shall pay interest payments commencing one month from drawdown and thereafter on the same day of the month for the next eleven months. The Borrower shall thereafter repay Borrowings under this facility as follows:

Payment Amount:	\$925.92	Payment Frequency:	Monthly
Payment Type:	Principal Plus Interest	Payment date:	13 months from drawdown
Repayable in full on:	The last day of a 10 year term from drawdown	Original Amortization (months)	120

The Bank may, at its discretion, adjust payments periodically, if necessary, to ensure payment in full of all Borrowings under this facility within the stated amortization period.

**SECURITY**

Without limiting any other security held by the Bank with respect to any credit facility provided by the Bank to the Borrower from time to time, Security for the Borrowings (collectively, the “**Security**”), shall include:

- a) BDC’s Eligible Borrower’s Representations and Warranties on the Bank’s and BDC’s standard form held in support of the BDC HASCAP Facility (the “**Borrower’s Representations and Warranties**”);
- b) General security agreement on the Bank’s form 924 signed by the Borrower constituting a first ranking security interest in all personal property of the Borrower;
- c) Postponement and assignment of claim on the Bank’s form 918 signed by Shakive Rahaman;
- d) Postponement and assignment of claim on the Bank’s form 918 signed by Asminur Rahaman.

If any guarantee and postponement of claim or suretyship and subordination of claims described above is a joint and several guarantee among one or more individual Persons and other non-individual Person(s), then, as set out in the Joint and Several paragraph in the Terms and Conditions below, the liability of each such non-individual Person for any BDC HASCAP Facility is joint and several (in Quebec, solidarily) with each other such non-individual Person party to such guarantee (if any). For purposes of greater certainty, an individual Person shall not be liable as Guarantor for obligations owing under any BDC HASCAP Facility.

**REPORTING REQUIREMENTS**

The Borrower will provide the following to the Bank:

- a) such financial and operating statements and reports as and when the Bank may reasonably require.

**CONDITIONS PRECEDENT**

In no event will the Credit Facilities or any part thereof be available unless the Bank has received:

- a) a duly executed copy of this Agreement;
- b) the Security provided for herein, registered, as required, to the satisfaction of the Bank;
- c) such financial and other information or documents relating to the Borrower or any Guarantor if applicable as the Bank may reasonably require;

- d) all terms and conditions of the HASCAP have been fulfilled to the satisfaction of the Bank; and
- e) such other authorizations, approvals, opinions and documentation as the Bank may reasonably require.

Additionally:

- f) all documentation to be received by the Bank shall be in form and substance satisfactory to the Bank.

#### **BUSINESS LOAN INSURANCE PLAN**

The Borrower hereby acknowledges that the Bank has offered it group creditor insurance coverage on the Borrowings under the Business Loan Insurance Plan and the Borrower hereby acknowledges that it is the Borrower's responsibility to apply for any new or increased insurance amount for the Borrowings that may be eligible.

If the Borrower decides to apply for insurance on the Borrowings, the application will be made via the Bank's Business Loan Insurance Plan application (form 3460 ENG or 53460 FRE). If the Borrower has existing uninsured Borrowings and decides not to apply for Business Loan Insurance Plan coverage on any new Borrowings, it hereby acknowledges that the Bank may accept the Borrower's signature below as the Borrower's waiver of the Bank's offer to apply for Business Loan Insurance Plan coverage on all such Borrowings, and that all such Borrowings are not insured under the Policy as at the date of acceptance of this Agreement.

If the Borrower has Business Loan Insurance Plan coverage on previously approved Borrowings, such coverage will be applied automatically to all new Borrowings eligible for Business Loan Insurance Plan coverage that share the same loan account number, up to the approved amount of Business Loan Insurance Plan coverage. This Agreement cannot be used to waive coverage on new Borrowings eligible for Business Loan Insurance Plan coverage if Business Loan Insurance Plan coverage is in effect on the Borrower's existing Borrowings. If the Borrower does not want Business Loan Insurance Plan coverage to apply to any new Borrowings, a different loan account number will need to be set up and all uninsured loans attached to it.

If the Borrower has existing Borrowings to which Business Loan Insurance Plan coverage applies, and any new Borrowings would exceed the approved amount of Business Loan Insurance Plan coverage already in place, the Borrower must apply for additional Business Loan Insurance Plan coverage (if eligible) in order for Business Loan Insurance Plan coverage to apply to any new Borrowings. If the Borrower decides not to apply for additional Business Loan Insurance Plan coverage in respect of any new Borrowings (if eligible), the Borrower hereby acknowledges that the Bank may accept the Borrower's signature below as the Borrower's waiver of the Bank's offer to apply for additional Business Loan Insurance Plan coverage on such new Borrowings and that such new Borrowings are not insured under the Policy as at the date the Borrower executes this Agreement.

If there are any discrepancies between the insurance information in this Agreement and the Business Loan Insurance Plan documents regarding the Borrowings, the Business Loan Insurance Plan documents govern.

Business Loan Insurance Plan premiums (plus applicable taxes), will be taken as a separate payment, directly from the bank account associated with the loan, at the same frequency and schedule as your regular loan payments, where applicable. As premiums are based on the outstanding loan balance and the insured person's age at the time the premiums are due, the cost of Business Loan Insurance Plan coverage may increase during the term of the loan. The premium calculation is set out in the Business Loan Insurance Plan terms and conditions provided to the Borrower at the time the application for Business Loan Insurance Plan coverage was completed. Refer to the terms and conditions (form 3460 ENG or 53460 FRE) for further explanation and disclosure.



**GOVERNING LAW JURISDICTION**

Province of Ontario.

**ACCEPTANCE**

This Agreement is open for acceptance until February 23, 2022, after which date it will be null and void, unless extended by the Bank in its sole discretion.

**ROYAL BANK OF CANADA**



Per: \_\_\_\_\_  
Title: Vice President

**RBC Contact: Prejna Erinhikkal**

/pl

We acknowledge and accept the terms and conditions of this Agreement on this 04 day of 02, 2022.

**2668144 ONTARIO INC.**

Per: SR Rahman  
Name: SHAKIVE RAHAMAN  
Title: PRESIDENT

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

I/We have the authority to bind the Borrower

Attachments:

Terms and Conditions

Schedules:

- Definitions
- Calculation and Payment of Interest and Fees
- Additional Borrowing Conditions
- BDC HASCAP Terms and Conditions

## TERMS AND CONDITIONS

The Bank is requested by the Borrower to make the Credit Facilities available to the Borrower in the manner and at the rates and times specified in this Agreement. Terms defined elsewhere in this Agreement and not otherwise defined in the Terms and Conditions below or the Schedules attached hereto have the meaning given to such terms as so defined. In consideration of the Bank making the Credit Facilities available, the Borrower agrees, and if the Borrower is comprised of more than one Person, such Persons jointly and severally agree, or in Quebec solidarily agree, with the Bank as follows:

### REPAYMENT

Amounts outstanding under the Credit Facilities, together with interest, shall become due in the manner and at the rates and times specified in this Agreement and shall be paid in the currency of the Borrowing. Unless the Bank otherwise agrees, any payment hereunder must be made in money which is legal tender at the time of payment. In the case of a demand facility of any kind, the Borrower shall repay all principal sums outstanding under such facility upon demand. Where any Borrowings are repayable by scheduled blended payments, such payments shall be applied, firstly, to interest due, and the balance, if any, shall be applied to principal outstanding. If any such payment is insufficient to pay all interest then due, the unpaid balance of such interest will be added to such Borrowing, will bear interest at the same rate, and will be payable on demand or on the date specified herein, as the case may be. Borrowings repayable by way of scheduled payments of principal and interest shall be so repaid with any balance of such Borrowings being due and payable as and when specified in this Agreement. The Borrower shall ensure that the maturities of instruments or contracts selected by the Borrower when making Borrowings will be such so as to enable the Borrower to meet its repayment obligations. For any Borrowings that are repayable by scheduled payments, if the scheduled payment date is changed then the Maturity Date of the applicable Borrowings shall automatically be amended accordingly.

In the case of any reducing term loan and/or reducing term facility ("**Reducing Term Loan/Facility**"), provided that nothing contained in this paragraph shall confer any right of renewal or extension upon the Borrower, the Borrower and the Bank agree that, at the Bank's option, the Bank may provide a letter ("**Renewal Letter**") to the Borrower setting out the terms upon which the Bank is prepared to extend the Reducing Term Loan/Facility. In the event that the Bank provides a Renewal Letter to the Borrower and the Reducing Term Loan/Facility is not repaid on or before the Maturity Date of the applicable Reducing Term Loan/Facility, then at the Bank's option the Reducing Term Loan/Facility shall be automatically renewed on the terms set out in the Renewal Letter and the terms of this Agreement shall be amended accordingly.

### PREPAYMENT

The Borrower may prepay Borrowings under the BDC HASCAP Facility by way of FRT Loans prior to the Maturity Date, in whole or in part, subject to the following conditions: (i) the Bank provides its prior written consent to such prepayment, (ii) the Borrower agrees to pay the Prepayment Fee as defined below, (iii) in the case of a partial prepayment, an amendment is made to the terms of this Agreement to reflect such prepayment, and (iv) such other conditions as the Bank may reasonably impose.

The Prepayment Fee will be calculated by the Bank as the greater of:

- (i) the amount equal to 3 months' interest payable on the amount of the FRT Loan Borrowings being prepaid, calculated at the interest rate applicable to the FRT Loan Borrowings on the date of prepayment; and
- (ii) the present value of the cash flow associated with the difference between the Bank's original cost of funds for the FRT Loan and the current cost of funds for a loan with a term substantially similar to the remaining term of the FRT Loan and an amortization period substantially similar to the remaining amortization period of the FRT Loan, each as determined by the Bank on the date of such prepayment;

The Prepayment Fee shall also be payable by the Borrower in the event that the Bank demands repayment of the outstanding principal of the FRT Loan on the occurrence of an Event of Default. The Borrower's obligation to pay the Prepayment Fee will be in addition to any other amounts then owing by the Borrower to the Bank, will form part of the loan amount and will be secured by the Security described herein.

The prepayment of any Borrowings under a term facility and/or any term loan will be made in the reverse order of maturity.

#### **EVIDENCE OF INDEBTEDNESS**

The Bank shall maintain accounts and records (the "**Accounts**") evidencing the Borrowings made available to the Borrower by the Bank under this Agreement. The Bank shall record the principal amount of such Borrowings, the payment of principal and interest on account of the Borrowings, and all other amounts becoming due to the Bank under this Agreement. The Accounts constitute, in the absence of manifest error, conclusive evidence of the indebtedness of the Borrower to the Bank pursuant to this Agreement. The Borrower authorizes and directs the Bank to automatically debit, by mechanical, electronic or manual means, any bank account of the Borrower for all amounts payable under this Agreement, including, but not limited to, the repayment of principal and the payment of interest, fees and all charges for the keeping of such bank accounts.

#### **GENERAL COVENANTS**

Without affecting or limiting the right of the Bank to terminate or demand payment of, or cancel or restrict availability of any unutilized portion of, any demand or other discretionary facility, the Borrower covenants and agrees with the Bank that the Borrower:

- a) will pay all sums of money when due under the terms of this Agreement;
- b) will immediately advise the Bank of any event which constitutes or which, with notice, lapse of time or both, would constitute a breach of any covenant or other term or condition of this Agreement or any Security or an Event of Default;
- c) will file all material tax returns which are or will be required to be filed by it, pay or make provision for payment of all material taxes (including interest and penalties) and Potential Prior-Ranking Claims, which are or will become due and payable and provide adequate reserves for the payment of any tax, the payment of which is being contested;
- d) will give the Bank 30 days prior notice in writing of any intended change in its ownership structure or composition and will not make or facilitate any such changes without the prior written consent of the Bank;
- e) will comply with all Applicable Laws, including, without limitation, all Environmental and Health and Safety Laws;
- f) will immediately advise the Bank of any action requests or violation notices received concerning the Borrower and hold the Bank harmless from and against any losses, costs or expenses which the Bank may suffer or incur for any environment related liabilities existent now or in the future with respect to the Borrower;
- g) will deliver to the Bank such financial and other information as the Bank may reasonably request from time to time, including, but not limited to, the reports and other information set out under Reporting Requirements;
- h) will immediately advise the Bank of any unfavourable change in its financial position which may adversely affect its ability to pay or perform its obligations in accordance with the terms of this Agreement;
- i) will keep its assets fully insured against such perils and in such manner as would be customarily insured by Persons carrying on a similar business or owning similar assets and, in addition, for any buildings located in areas prone to flood and/or earthquake, will insure and keep fully insured such buildings against such perils;
- j) except for Permitted Encumbrances, will not, without the prior written consent of the Bank, grant, create, assume or suffer to exist any mortgage, charge, lien, pledge, security interest or other encumbrance affecting any of its properties, assets or other rights;
- k) will not, without the prior written consent of the Bank, sell, transfer, convey, lease or otherwise dispose of any of its properties or assets other than in the ordinary course of business and on commercially reasonable terms;

- l) will not, without the prior written consent of the Bank, guarantee or otherwise provide for, on a direct, indirect or contingent basis, the payment of any monies or performance of any obligations by any other Person, except as may be provided for herein;
- m) will not, without the prior written consent of the Bank, merge, amalgamate, or otherwise enter into any other form of combination with any other Person;
- n) will permit the Bank or its representatives, from time to time, i) to visit and inspect the Borrower's premises, properties and assets and examine and obtain copies of the Borrower's records or other information, ii) to collect information from any entity regarding any Potential Prior-Ranking Claims and iii) to discuss the Borrower's affairs with the auditors, counsel and other professional advisers of the Borrower. The Borrower hereby authorizes and directs any such third party to provide to the Bank or its representatives all such information, records or documentation requested by the Bank; and
- o) will not use the proceeds of any Credit Facility for the benefit or on behalf of any Person other than the Borrower.

### **FEES, COSTS AND EXPENSES**

The Borrower agrees to pay the Bank all fees stipulated in this Agreement and all fees charged by the Bank relating to the documentation or registration of this Agreement and the Security. In addition, the Borrower agrees to pay all fees (including legal fees), costs and expenses incurred by the Bank in connection with the preparation, negotiation, documentation and registration of this Agreement and any Security and the administration, operation, termination, enforcement or protection of its rights in connection with this Agreement and the Security. The Borrower shall indemnify and hold the Bank harmless against any loss, cost or expense incurred by the Bank if any facility under the Credit Facilities is repaid or prepaid other than on its Maturity Date. The determination by the Bank of such loss, cost or expense shall be conclusive and binding for all purposes and shall include, without limitation, any loss incurred by the Bank in liquidating or redeploying deposits acquired to make or maintain any facility.

### **GENERAL INDEMNITY**

The Borrower hereby agrees to indemnify and hold the Bank and its directors, officers, employees and agents harmless from and against any and all claims, suits, actions, demands, debts, damages, costs, losses, obligations, judgements, charges, expenses and liabilities of any nature which are suffered, incurred or sustained by, imposed on or asserted against any such Person as a result of, in connection with or arising out of i) any breach of any term or condition of this Agreement or any Security or any other agreement delivered to the Bank by the Borrower or any Guarantor if applicable, or any Event of Default, ii) the Bank acting upon instructions given or agreements made by electronic transmission of any type, iii) the presence of Contaminants at, on or under or the discharge or likely discharge of Contaminants from, any properties now or previously used by the Borrower or any Guarantor and iv) the breach of or non compliance with any Applicable Law by the Borrower or any Guarantor.

### **AMENDMENTS AND WAIVERS**

Save and except for any waiver or extension of the deadline for acceptance of this Agreement at the Bank's sole discretion, which may be communicated in writing, verbally, or by conduct, no amendment or waiver of any provision of this Agreement will be effective unless it is in writing, signed by the Borrower and the Bank. No failure or delay, on the part of the Bank, in exercising any right or power hereunder or under any Security or any other agreement delivered to the Bank shall operate as a waiver thereof. Each Guarantor, if applicable, agrees that the amendment or waiver of any provision of this Agreement (other than agreements, covenants or representations expressly made by any Guarantor herein, if any) may be made without and does not require the consent or agreement of, or notice to, any Guarantor. Any amendments requested by the Borrower will require review and agreement by the Bank and its counsel. Costs related to this review will be for the Borrower's account.

### **SUCCESSORS AND ASSIGNS**

This Agreement shall extend to and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns. The Borrower shall not be entitled to assign or transfer any rights or obligations hereunder, without the consent in writing of the

Bank. The Bank may assign or transfer all or any part of its rights and obligations under this Agreement to any Person. The Bank may disclose to potential or actual assignees or transferees confidential information regarding the Borrower and any Guarantor if applicable, (including, any such information provided by the Borrower, and any Guarantor if applicable, to the Bank) and shall not be liable for any such disclosure.

**GAAP**

Unless otherwise provided, all accounting terms used in this Agreement shall be interpreted in accordance with Canadian Generally Accepted Accounting Principles, as appropriate, for publicly accountable enterprises, private enterprises, not-for-profit organizations, pension plans and in accordance, as appropriate, with Public Sector Accounting Standards for government organizations in effect from time to time, applied on a consistent basis from period to period. All financial statements and/or reports shall be prepared using one of the above bases of presentation, as appropriate. Except for the transition of accounting standards in Canada, any change in accounting principles or the application of accounting principles is only permitted with the prior written consent of the Bank.

**SEVERABILITY**

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement and such invalid provision shall be deemed to be severable.

**GOVERNING LAW**

This Agreement shall be construed in accordance with and governed by the laws of the Province identified in the Governing Law Jurisdiction section of this Agreement and the laws of Canada applicable therein. The Borrower irrevocably submits to the non-exclusive jurisdiction of the courts of such Province and acknowledges the competence of such courts and irrevocably agrees to be bound by a judgment of any such court.

**DEFAULT BY LAPSE OF TIME**

The mere lapse of time fixed for performing an obligation shall have the effect of putting the Borrower, or a Guarantor if applicable, in default thereof.

**SET-OFF**

The Bank is authorized (but not obligated), at any time and without notice, to apply any credit balance (whether or not then due) in any account in the name of the Borrower, or to which the Borrower is beneficially entitled (in any currency) at any branch or agency of the Bank in or towards satisfaction of the indebtedness of the Borrower due to the Bank under the Credit Facilities and the other obligations of the Borrower under this Agreement. For that purpose, the Bank is irrevocably authorized to use all or any part of any such credit balance to buy such other currencies as may be necessary to effect such application.

**NOTICES**

Any notice or demand to be given by the Bank shall be given in writing by way of a letter addressed to the Borrower. If the letter is sent by telecopier, it shall be deemed received on the date of transmission, provided such transmission is sent prior to 5:00 p.m. on a day on which the Borrower's business is open for normal business, and otherwise on the next such day. If the letter is sent by ordinary mail to the address of the Borrower, it shall be deemed received on the date falling five (5) days following the date of the letter, unless the letter is hand-delivered to the Borrower, in which case the letter shall be deemed to be received on the date of delivery. The Borrower must advise the Bank at once about any changes in the Borrower's address.

**CONSENT OF DISCLOSURE**

The Borrower hereby grants permission to any Person having information in such Person's possession relating to any Potential Prior-Ranking Claim, to release such information to the Bank (upon its written request), solely for the purpose of assisting the Bank to evaluate the financial condition of the Borrower.

**NON-MERGER**

The provisions of this Agreement shall not merge with any Security provided to the Bank, but shall continue in full force for the benefit of the parties hereto.

**JOINT AND SEVERAL**

Where more than one Person is liable as Borrower or Guarantor if applicable for any obligation under this Agreement, then the liability of each such Person for such obligation is joint and several (in Quebec, solidarily) with each other such Person. Notwithstanding the foregoing, where more than one Person is liable as Guarantor for any BDC HASCAP Facility hereunder, then the liability of each such Person for such obligation is joint and several (in Quebec, solidarily) with each other such Person other than individual Persons. For purposes of greater certainty, an individual Person shall not be liable as Guarantor for obligations owing under any BDC HASCAP Facility.

**COUNTERPART EXECUTION**

This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together constitute one and the same instrument.

**ELECTRONIC MAIL AND FAX TRANSMISSION**

The Bank is entitled to rely on any agreement, document or instrument provided to the Bank by the Borrower or any Guarantor as applicable, by way of electronic mail or fax transmission as though it were an original document. The Bank is further entitled to assume that any communication from the Borrower received by electronic mail or fax transmission is a reliable communication from the Borrower.

**ELECTRONIC IMAGING**

The parties hereto agree that, at any time, the Bank may convert paper records of this Agreement and all other documentation delivered to the Bank (each, a "**Paper Record**") into electronic images (each, an "**Electronic Image**") as part of the Bank's normal business practices. The parties agree that each such Electronic Image shall be considered as an authoritative copy of the Paper Record and shall be legally binding on the parties and admissible in any legal, administrative or other proceeding as conclusive evidence of the contents of such document in the same manner as the original Paper Record.

**REPRESENTATIONS AND WARRANTIES**

The Borrower represents and warrants to the Bank that:

- a) if applicable, it is duly constituted, validly existing and duly registered or qualified to carry on business or its operations in all jurisdictions where the nature of its properties, assets, business or operations make such registration or qualification necessary or desirable;
- b) the execution, delivery and performance by it of this Agreement do not violate any Applicable Laws or agreements to which it is subject or by which it is bound, and where applicable, have been duly authorized by all necessary actions and do not violate its constating documents;
- c) no event has occurred which constitutes, or which, with notice, lapse of time, or both, would constitute, a breach of any covenant or other term or condition of this Agreement or any Security or any other agreement delivered to the Bank or an Event of Default;
- d) there is no claim, action, prosecution or other proceeding of any kind pending or threatened against it or any of its assets or properties before any court or administrative agency which relates to any non-compliance with any Environmental and Health and Safety Laws which, if adversely determined, might have a material adverse effect upon its financial condition or operations or its ability to perform its obligations under this Agreement or any Security, and there are no circumstances of which it is aware which might give rise to any such proceeding which it has not fully disclosed to the Bank; and
- e) it has good and marketable title to all of its properties and assets, free and clear of any encumbrances, other than as may be provided for herein.

Representations and warranties are deemed to be repeated as at the time of each Borrowing and/or the entering into each Lease, if applicable, hereunder.

**LANGUAGE**

The parties hereto have expressly requested that this Agreement and all related documents, including notices, be drawn up in the English language. Les parties ont expressément demandé que la présente convention et tous les documents y afférents, y compris les avis, soient rédigés en langue anglaise.

**WHOLE AGREEMENT**

This Agreement and any documents or instruments referred to in, or delivered pursuant to, or in connection with, this Agreement constitute the whole and entire agreement between the Borrower and the Bank with respect to the Credit Facilities.

**EXCHANGE RATE FLUCTUATIONS**

If, for any reason, the amount of Borrowings and/or Leases, if applicable, outstanding under any facility in a currency other than Canadian currency, when converted to the Equivalent Amount in Canadian currency, exceeds the amount available under such facility, the Borrower shall immediately repay such excess or shall secure such excess to the satisfaction of the Bank.

**JUDGEMENT CURRENCY**

If for the purpose of obtaining judgement in any court in any jurisdiction with respect to this Agreement, it is necessary to convert into the currency of such jurisdiction (the "**Judgement Currency**") any amount due hereunder in any currency other than the Judgement Currency, then conversion shall be made at the rate of exchange prevailing on the Business Day before the day on which judgement is given. For this purpose "rate of exchange" means the rate at which the Bank would, on the relevant date, be prepared to sell a similar amount of such currency in the Toronto foreign exchange market, against the Judgement Currency, in accordance with normal banking procedures.

In the event that there is a change in the rate of exchange prevailing between the Business Day before the day on which judgement is given and the date of payment of the amount due, the Borrower will, on the date of payment, pay such additional amounts as may be necessary to ensure that the amount paid on such date is the amount in the Judgement Currency which, when converted at the rate of exchange prevailing on the date of payment, is the amount then due under this Agreement in such other currency together with interest at RBP and expenses (including legal fees on a solicitor and client basis). Any additional amount due from the Borrower under this section will be due as a separate debt and shall not be affected by judgement being obtained for any other sums due under or in respect of this Agreement.

**EVENTS OF DEFAULT**

Without affecting or limiting the right of the Bank to terminate or demand payment of, or to cancel or restrict availability of any unutilized portion of, any demand or other discretionary facility, each of the following shall constitute an "**Event of Default**" which shall entitle the Bank, in its sole discretion, to cancel any Credit Facilities, demand immediate repayment in full of any amounts outstanding under any term facility, together with outstanding accrued interest and any other indebtedness under or with respect to any term facility, and to realize on all or any portion of any Security:

- a) failure of the Borrower to pay any principal, interest or other amount when due pursuant to this Agreement;
- b) failure of the Borrower, or any Guarantor if applicable, to observe any covenant, term or condition contained in this Agreement, the Security, or any other agreement delivered to the Bank or in any documentation relating hereto or thereto (including, without limitation the Borrower's Representations and Warranties);
- c) the Borrower, or any Guarantor if applicable, is unable to pay its debts as such debts become due, or is, or is adjudged or declared to be, or admits to being, bankrupt or insolvent;
- d) if any proceeding is taken to effect a compromise or arrangement with the creditors of the Borrower, or any Guarantor if applicable, or to have the Borrower, or any Guarantor if applicable, declared bankrupt or wound up, or to have a receiver appointed for any part of the

- assets or operations of the Borrower, or any Guarantor if applicable, or if any encumbrancer takes possession of any part thereof;
- e) if in the opinion of the Bank there is a material adverse change in the financial condition, ownership or operation of the Borrower, or any Guarantor if applicable;
  - f) if any representation or warranty made by the Borrower, or any Guarantor if applicable, under this Agreement or in any other document relating hereto (including, without limitation the Borrower's Representations and Warranties) or under any Security shall be false in any material respect; or
  - g) if the Borrower, or any Guarantor if applicable, defaults in the payment of any other indebtedness, whether owing to the Bank or to any other Person, or defaults in the performance or observance of any agreement in respect of such indebtedness where, as a result of such default, the maturity of such indebtedness is or may be accelerated.

Should the Bank demand immediate repayment in full of any amounts outstanding under any term facility due to an Event of Default, the Borrower shall immediately repay all principal sums outstanding under such facility and all other obligations in connection with any such term facility.

#### **INCREASED COSTS**

If any change in Applicable Laws or the interpretation thereof after the date hereof (i) imposes or increases taxes on payments due to the Bank hereunder (other than taxes on the overall net income of the Bank), (ii) imposes or increases any reserve or other similar requirement or (iii) imposes or changes any other condition affecting the Credit Facilities, and the result of any of the foregoing results in any additional cost to the Bank of making available, continuing or maintaining any of the Credit Facilities hereunder (or maintaining any obligations to make any such Credit Facilities available hereunder) or results in any reduction in the amount of any sum received or receivable by the Bank in connection with this Agreement or the Credit Facilities made available hereunder, then from time to time, upon written request of the Bank, the Borrower shall promptly pay to the Bank, such additional amount or amounts as will compensate the Bank for any such additional costs incurred or reduction suffered.

#### **CONFIDENTIALITY**

This Agreement and all of its terms are confidential ("**Confidential Information**"). The Borrower shall keep the Confidential Information confidential and will not disclose the Confidential Information, or any part thereof, to any Person other than the Borrower's directors, officers, employees, agents, advisors, contractors, consultants and other representatives of the Borrower who need to know the Confidential Information for the purpose of this Agreement, who shall be informed of the confidential nature of the Confidential Information and who agree or are otherwise bound to treat the Confidential Information consistent with the terms of this Agreement. Without limiting the generality of the foregoing, the Borrower shall not issue any press release or make any other public announcement or filing with respect to the Confidential Information without the Bank's prior written consent.



**Schedule "A"****DEFINITIONS**

For the purpose of this Agreement, if applicable, the following terms and phrases shall have the following meanings:

**"Applicable Laws"** means, with respect to any Person, property, transaction or event, all present or future applicable laws, statutes, regulations, rules, policies, guidelines, rulings, interpretations, directives (whether or not having the force of law), orders, codes, treaties, conventions, judgements, awards, determinations and decrees of any governmental, quasi-governmental, regulatory, fiscal or monetary body or agency or court of competent jurisdiction in any applicable jurisdiction;

**"Borrowing"** means each use of a Credit Facility and all such usages outstanding at any time are **"Borrowings"**;

**"Business Day"** means a day, excluding Saturday, Sunday and any other day which shall be a legal holiday or a day on which banking institutions are closed throughout Canada;

**"Business Loan Insurance Plan"** means the optional group creditor insurance coverage, underwritten by Sun Life Assurance Company of Canada, and offered in connection with eligible loan products offered by the Bank;

**"Contaminant"** includes, without limitation, any pollutant, dangerous substance, liquid waste, industrial waste, hazardous material, hazardous substance or contaminant including any of the foregoing as defined in any Environmental and Health and Safety Law;

**"Environmental Activity"** means any activity, event or circumstance in respect of a Contaminant, including, without limitation, its storage, use, holding, collection, purchase, accumulation, assessment, generation, manufacture, construction, processing, treatment, stabilization, disposition, handling or transportation, or its Release into the natural environment, including movement through or in the air, soil, surface water or groundwater;

**"Environmental and Health and Safety Laws"** means all Applicable Laws relating to the environment or occupational health and safety, or any Environmental Activity;

**"Equivalent Amount"** means, with respect to an amount of any currency, the amount of any other currency required to purchase that amount of the first mentioned currency through the Bank in Toronto, in accordance with normal banking procedures;

**"Guarantor"** means any Person who has guaranteed the obligations of the Borrower under this Agreement;

**"Maturity Date"** means the date on which a facility is due and payable in full;

**"Permitted Encumbrances"** means, in respect of the Borrower:

- a) liens arising by operation of law for amounts not yet due or delinquent, minor encumbrances on real property such as easements and rights of way which do not materially detract from the value of such property, and security given to municipalities and similar public authorities when required by such authorities in connection with the operations of the Borrower in the ordinary course of business; and
- b) Security granted in favour of the Bank;

**"Person"** includes an individual, a partnership, a joint venture, a trust, an unincorporated organization, a company, a corporation, an association, a government or any department or agency thereof, and any other incorporated or unincorporated entity;

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**“Policy”** means the Business Loan Insurance Plan policy 5100, issued by Sun Life Assurance Company of Canada to the Bank;

**“Potential Prior-Ranking Claims”** means all amounts owing or required to be paid, where the failure to pay any such amount could give rise to a claim pursuant to any law, statute, regulation or otherwise, which ranks or is capable of ranking in priority to the Security or otherwise in priority to any claim by the Bank for repayment of any amounts owing under this Agreement;

**“RBP”** and **“Royal Bank Prime”** each means the annual rate of interest announced by the Bank from time to time as being a reference rate then in effect for determining interest rates on commercial loans made in Canadian currency in Canada; and

**“Release”** includes discharge, spray, inject, inoculate, abandon, deposit, spill, leak, seep, pour, emit, empty, throw, dump, place and exhaust, and when used as a noun has a similar meaning.

**Schedule "B"****CALCULATION AND PAYMENT OF INTEREST AND FEES****LIMIT ON INTEREST**

The Borrower shall not be obligated to pay any interest, fees or costs under or in connection with this Agreement in excess of what is permitted by Applicable Law. In no event shall the effective interest rate payable by the Borrower under any facility be less than zero.

**OVERDUE PAYMENTS**

Any amount that is not paid when due hereunder shall, unless interest is otherwise payable in respect thereof in accordance with the terms of this Agreement or the instrument or contract governing same, bear interest until paid at the rate of RBP plus 5% per annum or the highest premium indicated for any of the Borrower's facilities when in excess of 5%. Such interest on overdue amounts shall be computed daily, compounded monthly and shall be payable both before and after any or all of default, maturity date, demand and judgement.

**EQUIVALENT YEARLY RATES**

The annual rates of interest or fees to which the rates calculated in accordance with this Agreement are equivalent, are the rates so calculated multiplied by the actual number of days in the calendar year in which such calculation is made and divided by 365.

**TIME AND PLACE OF PAYMENT**

Amounts payable by the Borrower hereunder shall be paid at such place as the Bank may advise from time to time in the applicable currency. Amounts due on a day other than a Business Day shall be deemed to be due on the Business Day next following such day. Interest and fees payable under this Agreement are payable both before and after any or all of default, maturity date, demand and judgement.

**FRT LOANS**

The Borrower shall pay interest on each loan in arrears at the applicable rate on such date as agreed upon between the Bank and the Borrower. Such interest will be calculated monthly and will accrue daily on the basis of the actual number of days elapsed and a year of 365 days.

**Schedule "D"****ADDITIONAL BORROWING CONDITIONS****FRT Loans:**

Borrowings made by way of FRT Loans will be subject to the following terms and conditions:

- a) each FRT Loan shall have a minimum term of one year;
- b) each FRT Loan shall be in an amount not less than \$10,000.00; and
- c) each FRT Loan shall have a term as outlined in the applicable repayment section of each corresponding credit facility, provided that the maturity date of any FRT Loan issued under any term facility shall not extend beyond the Maturity Date of the term facility.

**Schedule "N"****BDC BUSINESS CREDIT AVAILABILITY PROGRAM****INTRODUCTION**

The BDC HASCAP Facility is being provided to the Borrower under Business Development Bank of Canada's ("BDC") Highly Affected Sectors Credit Availability Program ("HASCAP"). HASCAP is intended to provide additional liquidity support to Canadian businesses that have been highly affected by and are facing economic hardship as a result of the COVID-19 pandemic by having BDC provide a guarantee (the "BDC Guarantee") in favour of the Bank against loan losses, provided the requirements of HASCAP have been met.

The Borrower acknowledges that the BDC Guarantee is subject to the Borrower meeting BDC's HASCAP mandate requirements regarding support for Canadian businesses, as that mandate is expressed from time to time.

**BDC GUARANTEE FEE**

The Borrower acknowledges that 1.00% of the 4.00% per annum interest rate payable under the BDC HASCAP Facility is a non-refundable guarantee fee charged by BDC for coverage under BDC HASCAP. The Borrower hereby authorizes and directs the Bank to collect such guarantee fee and remit it to BDC on the Borrower's behalf.

**BDC CONDITIONS PRECEDENT**

In addition to the conditions set forth in the Conditions Precedent section of this Agreement, the availability of any Borrowing under the BDC HASCAP Facility is conditional upon receipt of the following:

- a) the confirmation number issued by BDC on the Borrower's completion and submission of BDC's online electronic information form;
- b) the Borrower's signed Borrower's Representations and Warranties; and
- c) a signed Waiver from each Guarantor, present and future, if applicable.

The Borrower is required to access and to complete the above-mentioned forms electronically using a link on the [BDC website](#).

In addition to the above conditions, no advance is available to the Borrower hereunder if a default or an event of default has occurred and is continuing under any of the Borrower's other credit facilities with the Bank, except as such default or event or default may be waived by the Bank in writing or otherwise remedied to the satisfaction of the Bank, acting reasonably.

The BDC conditions precedent above and the conditions set forth in the Conditions Precedent section of this Agreement (collectively, the "**BDC HASCAP Facility Conditions Precedent**") shall be satisfied on or before May 31, 2022 or such other date as the Bank may notify the Borrower in writing. If the BDC HASCAP Facility Conditions Precedent are not satisfied or waived by the Bank (in the Bank's sole discretion) on or before such date, the BDC HASCAP Facility shall automatically be cancelled and shall no longer be available to the Borrower.

**USE OF BORROWINGS**

Borrowings under the BDC HASCAP Facility shall only be used in accordance with the terms and conditions of the Borrower's Representations and Warranties.

**CONSENT AND ACKNOWLEDGEMENT**

The Borrower agrees to the following:

- a) it irrevocably authorizes the Bank and BDC to:
  - i. freely and fully communicate with each other and freely and fully share information, records, files and documentation related to the Borrower, the BDC HASCAP Facility and the BDC Guarantee including, without limitation, with respect to the Borrower's business, property, assets, customers, contracts, purchase orders, creditors, financial state, projections and prospects and the Bank's internal credit review of the Borrower (including, without limitation, risk ratings, key financial ratios, ratings, analysis of the Borrower's financial statements, assessment of technical capability, and relevant history of the Borrower), and
  - ii. retain copies of information or documents relating to any of the foregoing.
- b) it hereby remises, releases and forever discharges the Bank and BDC from all actions, causes of actions, suits, duties, accounts, bonds, covenants, claims and demands whatsoever, which any of the undersigned, may now or hereafter have against either or both of the Bank and BDC for or by reason of or in any way arising out of the release or sharing of information provided for in this consent and acknowledgement.
- c) it acknowledges that BDC has made no commitment to provide the BDC Guarantee and such decision remains in BDC's sole discretion and that the BDC Guarantee must be in form and on terms and conditions satisfactory to the Bank.

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This is Exhibit "D" referred to  
in the Affidavit of Michael Foster  
Sworn this 30<sup>th</sup>  
day of June, 2023.



[Rachel Moses \(Jul 4, 2023 08:10 EDT\)](#)

.....  
A Commissioner for Taking Affidavits

Rachel Moses / LSO# 42081V

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Royal Bank of Canada  
General Security Agreement



SRF: 334760261  
Borrower: 2668144 ONTARIO INC.

9300 BATHURST ST  
2ND FLR  
MAPLE  
ONTARIO  
L6A 4N9  
CA

## 1. SECURITY INTEREST

(a) For value received, the undersigned ("Debtor"), hereby grants to **ROYAL BANK OF CANADA** ("RBC"), a security interest (the "Security Interest") in the undertaking of Debtor and in all of Debtor's present and after acquired personal property including, without limitation, in all Goods (including all parts, accessories, attachments, special tools, additions and accessions thereto), Chattel Paper, Documents of Title (whether negotiable or not), Instruments, Intangibles, Money and Securities and all other Investment Property now owned or hereafter owned or acquired by or on behalf of Debtor (including such as may be returned to or repossessed by Debtor) and in all proceeds and renewals thereof, accretions thereto and substitutions therefore (hereinafter collectively called "Collateral"), and including, without limitation, all of the following now owned or hereafter owned or acquired by or on behalf of Debtor:

- (i) all Inventory of whatever kind and wherever situate;
- (ii) all equipment (other than Inventory) of whatever kind and wherever situate, including, without limitation, all machinery, tools, apparatus, plant, furniture, fixtures and vehicles of whatsoever nature or kind;
- (iii) all Accounts and book debts and generally all debts, dues, claims, choses in action and demands of every nature and kind howsoever arising or secured including letters of credit and advices of credit, which are now due, owing or accruing or growing due to or owned by or which may hereafter become due, owing or accruing or growing due to or owned by Debtor ("Debts");
- (iv) all lists, records and files relating to Debtor's customers, clients and patients;
- (v) all deeds, documents, writings, papers, books of account and other books relating to or being records of Debts, Chattel Paper or Documents of Title or by which such are or may hereafter be secured, evidenced, acknowledged or made payable;
- (vi) all contractual rights and insurance claims;
- (vii) all patents, industrial designs, trade-marks, trade secrets and know-how including without limitation environmental technology and biotechnology, confidential information, trade-names, goodwill, copyrights, personality rights, plant breeders' rights, integrated circuit topographies, software and all other forms of intellectual and industrial property, and any registrations and applications for registration of any of the foregoing (collectively "Intellectual Property"); and
- (viii) all property described in Schedule "C" or any schedule now or hereafter annexed hereto.

(b) The Security Interest granted hereby shall not extend or apply to and Collateral shall not include the last day of the term of any lease or agreement therefor but upon the enforcement of the Security Interest, Debtor shall stand possessed of such last day in trust to assign the same to any person acquiring such term.

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(c) The terms "Goods", "Chattel Paper", "Document of Title", "Instrument", "Intangible", "Security", "Investment Property", "proceeds", "Inventory", "accession", "Money", "Account", "financing statement" and "financing change statement" whenever used herein shall be interpreted pursuant to their respective meanings when used in The Personal Property Security Act of the province referred to in Clause 14(s), as amended from time to time, which Act, including amendments thereto and any Act substituted therefor and amendments thereto is herein referred to as the "P.P.S.A.". Provided always that the term "Goods" when used herein shall not include "consumer goods" of Debtor as that term is defined in the P.P.S.A., the term "Inventory" when used herein shall include livestock and the young thereof after conception and crops that become such within one year of execution of this Security Agreement and the term "Investment Property", if not defined in the P.P.S.A., shall be interpreted according to its meaning in the Personal Property Security Act (Ontario). Any reference herein to "Collateral" shall, unless the context otherwise requires, be deemed a reference to "Collateral or any part thereof".

## 2. INDEBTEDNESS SECURED

The Security Interest granted hereby secures payment and performance of any and all obligations, indebtedness and liability of Debtor to RBC (including interest thereon) present or future, direct or indirect, absolute or contingent, matured or not, extended or renewed, wheresoever and howsoever incurred and any ultimate unpaid balance thereof and whether the same is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again and whether Debtor be bound alone or with another or others and whether as principal or surety (hereinafter collectively called the "Indebtedness"). If the Security Interest in the Collateral is not sufficient, in the event of default, to satisfy all Indebtedness of the Debtor, the Debtor acknowledges and agrees that Debtor shall continue to be liable for any Indebtedness remaining outstanding and RBC shall be entitled to pursue full payment thereof.

## 3. REPRESENTATIONS AND WARRANTIES OF DEBTOR

Debtor represents and warrants and so long as this Security Agreement remains in effect shall be deemed to continuously represent and warrant that:

(a) the Collateral is genuine and owned by Debtor free of all security interests, mortgages, liens, claims, charges, licenses, leases, infringements by third parties, encumbrances or other adverse claims or interests (hereinafter collectively called "Encumbrances"), save for the Security Interest and those Encumbrances shown on Schedule "A" or hereafter approved in writing by RBC, prior to their creation or assumption;

(b) all Intellectual Property applications and registrations are valid and in good standing and Debtor is the owner of the applications and registrations;

(c) each Debt, Chattel Paper and Instrument constituting Collateral is enforceable in accordance with its terms against the party obligated to pay the same (the "Account Debtor"), and the amount represented by Debtor to RBC from time to time as owing by each Account Debtor or by all Account Debtors will be the correct amount actually and unconditionally owing by such Account Debtor or Account Debtors, except for normal cash discounts where applicable, and no Account Debtor will have any defence, set off, claim or counterclaim against Debtor which can be asserted against RBC, whether in any proceeding to enforce Collateral or otherwise;

(d) the locations specified in Schedule "B" as to business operations and records are accurate and complete and with respect to Goods (including Inventory) constituting Collateral, the locations specified in Schedule "B" are accurate and complete save for Goods in transit to such locations and Inventory on lease or consignment; and all fixtures or Goods about to become fixtures and all crops and all oil, gas or other minerals to be extracted and all timber to be cut which forms part of the Collateral will be situate at one of such locations; and

(e) the execution, delivery and performance of the obligations under this Security Agreement and the creation of any security interest in or assignment hereunder of Debtor's rights in the Collateral to RBC will not result in a breach of any agreement to which Debtor is a party.

## 4. COVENANTS OF THE DEBTOR

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So long as this Security Agreement remains in effect Debtor covenants and agrees:

(a) to defend the Collateral against the claims and demands of all other parties claiming the same or an interest therein; to diligently initiate and prosecute legal action against all infringers of Debtor's rights in Intellectual Property; to take all reasonable action to keep the Collateral free from all Encumbrances, except for the Security Interest, licenses which are compulsory under federal or provincial legislation and those shown on Schedule "A" or hereafter approved in writing by RBC, prior to their creation or assumption, and not to sell, exchange, transfer, assign, lease, license or otherwise dispose of Collateral or any interest therein without the prior written consent of RBC; provided always that, until default, Debtor may, in the ordinary course of Debtor's business, sell or lease Inventory and, subject to Clause 7 hereof, use Money available to Debtor;

(b) to notify RBC promptly of:

- (i) any change in the information contained herein or in the Schedules hereto relating to Debtor, Debtor's business or Collateral,
- (ii) the details of any significant acquisition of Collateral,
- (iii) the details of any claims or litigation affecting Debtor or Collateral,
- (iv) any loss or damage to Collateral,
- (v) any default by any Account Debtor in payment or other performance of its obligations with respect to Collateral, and
- (vi) the return to or repossession by Debtor of Collateral;

(c) to keep Collateral in good order, condition and repair and not to use Collateral in violation of the provisions of this Security Agreement or any other agreement relating to Collateral or any policy insuring Collateral or any applicable statute, law, by-law, rule, regulation or ordinance; to keep all agreements, registrations and applications relating to Intellectual Property and intellectual property used by Debtor in its business in good standing and to renew all agreements and registrations as may be necessary or desirable to protect Intellectual Property, unless otherwise agreed in writing by RBC; to apply to register all existing and future copyrights, trade-marks, patents, integrated circuit topographies and industrial designs whenever it is commercially reasonable to do so;

(d) to do, execute, acknowledge and deliver such financing statements, financing change statements and further assignments, transfers, documents, acts, matters and things (including further schedules hereto) as may be reasonably requested by RBC of or with respect to Collateral in order to give effect to these presents and to pay all costs for searches and filings in connection therewith;

(e) to pay all taxes, rates, levies, assessments and other charges of every nature which may be lawfully levied, assessed or imposed against or in respect of Debtor or Collateral as and when the same become due and payable;

(f) to insure collateral in such amounts and against such risks as would customarily be insured by a prudent owner of similar Collateral and in such additional amounts and against such additional risks as RBC may from time to time direct, with loss payable to RBC and Debtor, as insureds, as their respective interests may appear, and to pay all premiums therefor and deliver copies of policies and evidence of renewal to RBC on request;

(g) to prevent Collateral, save Inventory sold or leased as permitted hereby, from being or becoming an accession to other property not covered by this Security Agreement;

(h) to carry on and conduct the business of Debtor in a proper and efficient manner and so as to protect and preserve Collateral and to keep, in accordance with generally accepted accounting principles, consistently applied, proper books of account for Debtor's business as well as accurate and complete records concerning Collateral, and mark any and all such records and Collateral at RBC's request so as to indicate the Security Interest;

(i) to deliver to RBC from time to time promptly upon request:

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- (i) any Documents of Title, Instruments, Securities and Chattel Paper constituting, representing or relating to Collateral,
- (ii) all books of account and all records, ledgers, reports, correspondence, schedules, documents, statements, lists and other writings relating to Collateral for the purpose of inspecting, auditing or copying the same,
- (iii) all financial statements prepared by or for Debtor regarding Debtor's business,
- (iv) all policies and certificates of insurance relating to Collateral, and
- (v) such information concerning Collateral, the Debtor and Debtor's business and affairs as RBC may reasonably request.

## 5. USE AND VERIFICATION OF COLLATERAL

Subject to compliance with Debtor's covenants contained herein and Clause 7 hereof, Debtor may, until default, possess, operate, collect, use and enjoy and deal with Collateral in the ordinary course of Debtor's business in any manner not inconsistent with the provisions hereof; provided always that RBC shall have the right at any time and from time to time to verify the existence and state of the Collateral in any manner RBC may consider appropriate and Debtor agrees to furnish all assistance and information and to perform all such acts as RBC may reasonably request in connection therewith and for such purpose to grant to RBC or its agents access to all places where Collateral may be located and to all premises occupied by Debtor.

## 6. SECURITIES, INVESTMENT PROPERTY

If Collateral at any time includes Securities, Debtor authorizes RBC to transfer the same or any part thereof into its own name or that of its nominee(s) so that RBC or its nominee(s) may appear of record as the sole owner thereof; provided that, until default, RBC shall deliver promptly to Debtor all notices or other communications received by it or its nominee(s) as such registered owner and, upon demand and receipt of payment of any necessary expenses thereof, shall issue to Debtor or its order a proxy to vote and take all action with respect to such Securities. After default, Debtor waives all rights to receive any notices or communications received by RBC or its nominee(s) as such registered owner and agrees that no proxy issued by RBC to Debtor or its order as aforesaid shall thereafter be effective.

Where any Investment Property is held in or credited to an account that has been established with a securities intermediary, RBC may, at any time after default, give a notice of exclusive control to any such securities intermediary with respect to such Investment Property.

## 7. COLLECTION OF DEBTS

Before or after default under this Security Agreement, RBC may notify all or any Account Debtors of the Security Interest and may also direct such Account Debtors to make all payments on Collateral to RBC. Debtor acknowledges that any payments on or other proceeds of Collateral received by Debtor from Account Debtors, whether before or after notification of this Security Interest to Account Debtors and whether before or after default under this Security Agreement, shall be received and held by Debtor in trust for RBC and shall be turned over to RBC upon request.

## 8. INCOME FROM AND INTEREST ON COLLATERAL

(a) Until default, Debtor reserves the right to receive any Money constituting income from or interest on Collateral and if RBC receives any such Money prior to default, RBC shall either credit the same against the Indebtedness or pay the same promptly to Debtor.

(b) After default, Debtor will not request or receive any Money constituting income from or interest on Collateral and if

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Debtor receives any such Money without any request by it, Debtor will pay the same promptly to RBC.

## 9. INCREASES, PROFITS, PAYMENTS OR DISTRIBUTIONS

(a) Whether or not default has occurred, Debtor authorizes RBC:

- (i) to receive any increase in or profits on Collateral (other than Money) and to hold the same as part of Collateral. Money so received shall be treated as income for the purposes of Clause 8 hereof and dealt with accordingly;
- (ii) to receive any payment or distribution upon redemption or retirement or upon dissolution and liquidation of the issuer of Collateral; to surrender such Collateral in exchange therefor and to hold any such payment or distribution as part of Collateral.

(b) If Debtor receives any such increase or profits (other than Money) or payments or distributions, Debtor will deliver the same promptly to RBC to be held by RBC as herein provided.

## 10. DISPOSITION OF MONEY

Subject to any applicable requirements of the P.P.S.A., all Money collected or received by RBC pursuant to or in exercise of any right it possesses with respect to Collateral shall be applied on account of Indebtedness in such manner as RBC deems best or, at the option of RBC, may be held unappropriate in a collateral account or released to Debtor, all without prejudice to the liability of Debtor or the rights of RBC hereunder, and any surplus shall be accounted for as required by law.

## 11. EVENTS OF DEFAULT

The happening of any of the following events or conditions shall constitute default hereunder which is herein referred to as "default":

(a) the nonpayment when due, whether by acceleration or otherwise, of any principal or interest forming part of Indebtedness or the failure of Debtor to observe or perform any obligation, covenant, term, provision or condition contained in this Security Agreement or any other agreement between Debtor and RBC;

(b) the death of or a declaration of incompetency by a court of competent jurisdiction with respect to Debtor, if an individual;

(c) the bankruptcy or insolvency of Debtor; the filing against Debtor of a petition in bankruptcy; the making of an assignment for the benefit of creditors by Debtor; the appointment of a receiver or trustee for Debtor or for any assets of Debtor or the institution by or against Debtor of any other type of insolvency proceeding under the Bankruptcy and Insolvency Act or otherwise;

(d) the institution by or against Debtor of any formal or informal proceeding for the dissolution or liquidation of, settlement of claims against or winding up of affairs of Debtor;

(e) if any Encumbrance affecting Collateral becomes enforceable against Collateral;

(f) if Debtor ceases or threatens to cease to carry on business or makes or agrees to make a bulk sale of assets without complying with applicable law or commits or threatens to commit an act of bankruptcy;

(g) if any execution, sequestration, extent or other process of any court becomes enforceable against Debtor or if distress or analogous process is levied upon the assets of Debtor or any part thereof;

(h) if any certificate, statement, representation, warranty or audit report heretofore or hereafter furnished by or on behalf of Debtor pursuant to or in connection with this Security Agreement, or otherwise (including, without limitation, the

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representations and warranties contained herein) or as an inducement to RBC to extend any credit to or to enter into this or any other agreement with Debtor, proves to have been false in any material respect at the time as of which the facts therein set forth were stated or certified, or proves to have omitted any substantial contingent or unliquidated liability or claim against Debtor; or if upon the date of execution of this Security Agreement, there shall have been any material adverse change in any of the facts disclosed by any such certificate, representation, statement, warranty or audit report, which change shall not have been disclosed to RBC at or prior to the time of such execution.

## 12. ACCELERATION

RBC, in its sole discretion, may declare all or any part of Indebtedness which is not by its terms payable on demand to be immediately due and payable, without demand or notice of any kind, in the event of default, or if RBC considers itself insecure or that the Collateral is in jeopardy. The provisions of this clause are not intended in any way to affect any rights of RBC with respect to any Indebtedness which may now or hereafter be payable on demand.

## 13. REMEDIES

(a) Upon default, RBC may appoint or reappoint by instrument in writing, any person or persons, whether an officer or officers or an employee or employees of RBC or not, to be a receiver or receivers (hereinafter called a "Receiver", which term when used herein shall include a receiver and manager) of Collateral (including any interest, income or profits therefrom) and may remove any Receiver so appointed and appoint another in his/her stead. Any such Receiver shall, so far as concerns responsibility for his/her acts, be deemed the agent of Debtor and not RBC, and RBC shall not be in any way responsible for any misconduct, negligence or non-feasance on the part of any such Receiver, his/her servants, agents or employees. Subject to the provisions of the instrument appointing him/her, any such Receiver shall have power to take possession of Collateral, to preserve Collateral or its value, to carry on or concur in carrying on all or any part of the business of Debtor and to sell, lease, license or otherwise dispose of or concur in selling, leasing, licensing or otherwise disposing of Collateral. To facilitate the foregoing powers, any such Receiver may, to the exclusion of all others, including Debtor, enter upon, use and occupy all premises owned or occupied by Debtor wherein Collateral may be situate, maintain Collateral upon such premises, borrow money on a secured or unsecured basis and use Collateral directly in carrying on Debtor's business or as security for loans or advances to enable the Receiver to carry on Debtor's business or otherwise, as such Receiver shall, in its discretion, determine. Except as may be otherwise directed by RBC, all Money received from time to time by such Receiver in carrying out his/her appointment shall be received in trust for and paid over to RBC. Every such Receiver may, in the discretion of RBC, be vested with all or any of the rights and powers of RBC.

(b) Upon default, RBC may, either directly or through its agents or nominees, exercise any or all of the powers and rights given to a Receiver by virtue of the foregoing sub-clause (a).

(c) RBC may take possession of, collect, demand, sue on, enforce, recover and receive Collateral and give valid and binding receipts and discharges therefor and in respect thereof and, upon default, RBC may sell, license, lease or otherwise dispose of Collateral in such manner, at such time or times and place or places, for such consideration and upon such terms and conditions as to RBC may seem reasonable.

(d) In addition to those rights granted herein and in any other agreement now or hereafter in effect between Debtor and RBC and in addition to any other rights RBC may have at law or in equity, RBC shall have, both before and after default, all rights and remedies of a secured party under the P.P.S.A. Provided always, that RBC shall not be liable or accountable for any failure to exercise its remedies, take possession of, collect, enforce, realize, sell, lease, license or otherwise dispose of Collateral or to institute any proceedings for such purposes. Furthermore, RBC shall have no obligation to take any steps to preserve rights against prior parties to any Instrument or Chattel Paper whether Collateral or proceeds and whether or not in RBC's possession and shall not be liable or accountable for failure to do so.

(e) Debtor acknowledges that RBC or any Receiver appointed by it may take possession of Collateral wherever it may be located and by any method permitted by law and Debtor agrees upon request from RBC or any such Receiver to assemble and deliver possession of Collateral at such place or places as directed.

(f) Debtor agrees to be liable for and to pay all costs, charges and expenses reasonably incurred by RBC or any

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Receiver appointed by it, whether directly or for services rendered (including reasonable solicitors and auditors costs and other legal expenses and Receiver remuneration), in operating Debtor's accounts, in preparing or enforcing this Security Agreement, taking and maintaining custody of, preserving, repairing, processing, preparing for disposition and disposing of Collateral and in enforcing or collecting Indebtedness and all such costs, charges and expenses, together with any amounts owing as a result of any borrowing by RBC or any Receiver appointed by it, as permitted hereby, shall be a first charge on the proceeds of realization, collection or disposition of Collateral and shall be secured hereby.

(g) RBC will give Debtor such notice, if any, of the date, time and place of any public sale or of the date after which any private disposition of Collateral is to be made as may be required by the P.P.S.A..

(h) Upon default and receiving written demand from RBC, Debtor shall take such further action as may be necessary to evidence and effect an assignment or licensing of Intellectual Property to whomever RBC directs, including to RBC. Debtor appoints any officer or director or branch manager of RBC upon default to be its attorney in accordance with applicable legislation with full power of substitution and to do on Debtor's behalf anything that is required to assign, license or transfer, and to record any assignment, licence or transfer of the Collateral. This power of attorney, which is coupled with an interest, is irrevocable until the release or discharge of the Security Interest.

#### 14. MISCELLANEOUS

(a) Debtor hereby authorizes RBC to file such financing statements, financing change statements and other documents and do such acts, matters and things (including completing and adding schedules hereto identifying Collateral or any permitted Encumbrances affecting Collateral or identifying the locations at which Debtor's business is carried on and Collateral and records relating thereto are situate) as RBC may deem appropriate to perfect on an ongoing basis and continue the Security Interest, to protect and preserve Collateral and to realize upon the Security Interest and Debtor hereby irrevocably constitutes and appoints the Manager or Acting Manager from time to time of the herein mentioned branch of RBC the true and lawful attorney of Debtor, with full power of substitution, to do any of the foregoing in the name of Debtor whenever and wherever it may be deemed necessary or expedient.

(b) Without limiting any other right of RBC, whenever Indebtedness is immediately due and payable or RBC has the right to declare Indebtedness to be immediately due and payable (whether or not it has so declared), RBC may, in its sole discretion, set off against Indebtedness any and all amounts then owed to Debtor by RBC in any capacity, whether or not due, and RBC shall be deemed to have exercised such right to set off immediately at the time of making its decision to do so even though any charge therefor is made or entered on RBC's records subsequent thereto.

(c) Upon Debtor's failure to perform any of its duties hereunder, RBC may, but shall not be obligated to, perform any or all of such duties, and Debtor shall pay to RBC, forthwith upon written demand therefor, an amount equal to the expense incurred by RBC in so doing plus interest thereon from the date such expense is incurred until it is paid at the rate of 15% per annum.

(d) RBC may grant extensions of time and other indulgences, take and give up security, accept compositions, compound, compromise, settle, grant releases and discharges and otherwise deal with Debtor, debtors of Debtor, sureties and others and with Collateral and other security as RBC may see fit without prejudice to the liability of Debtor or RBC's right to hold and realize the Security Interest. Furthermore, RBC may demand, collect and sue on Collateral in either Debtor's or RBC's name, at RBC's option, and may endorse Debtor's name on any and all cheques, commercial paper, and any other Instruments pertaining to or constituting Collateral.

(e) No delay or omission by RBC in exercising any right or remedy hereunder or with respect to any Indebtedness shall operate as a waiver thereof or of any other right or remedy, and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right or remedy. Furthermore, RBC may remedy any default by Debtor hereunder or with respect to any Indebtedness in any reasonable manner without waiving the default remedied and without waiving any other prior or subsequent default by Debtor. All rights and remedies of RBC granted or recognized herein are cumulative and may be exercised at any time and from time to time independently or in combination.

(f) Debtor waives protest of any Instrument constituting Collateral at any time held by RBC on which Debtor is in any way liable and, subject to Clause 13(g) hereof, notice of any other action taken by RBC.

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(g) This Security Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns. In any action brought by an assignee of this Security Agreement and the Security Interest or any part thereof to enforce any rights hereunder, Debtor shall not assert against the assignee any claim or defence which Debtor now has or hereafter may have against RBC. If more than one Debtor executes this Security Agreement the obligations of such Debtors hereunder shall be joint and several.

(h) RBC may provide any financial and other information it has about Debtor, the Security Interest and the Collateral to any one acquiring or who may acquire an interest in the Security Interest or the Collateral from the Bank or any one acting on behalf of the Bank.

(i) Save for any schedules which may be added hereto pursuant to the provisions hereof, no modification, variation or amendment of any provision of this Security Agreement shall be made except by a written agreement, executed by the parties hereto and no waiver of any provision hereof shall be effective unless in writing.

(j) Subject to the requirements of Clauses 13(g) and 14(k) hereof, whenever either party hereto is required or entitled to notify or direct the other or to make a demand or request upon the other, such notice, direction, demand or request shall be in writing and shall be sufficiently given, in the case of RBC, if delivered to it or sent by prepaid registered mail addressed to it at its address herein set forth or as changed pursuant hereto, and, in the case of Debtor, if delivered to it or if sent by prepaid registered mail addressed to it at its last address known to RBC. Either party may notify the other pursuant hereto of any change in such party's principal address to be used for the purposes hereof.

(k) This Security Agreement and the security afforded hereby is in addition to and not in substitution for any other security now or hereafter held by RBC and is intended to be a continuing Security Agreement and shall remain in full force and effect until the Manager or Acting Manager from time to time of the herein mentioned branch of RBC shall actually receive written notice of its discontinuance; and, notwithstanding such notice, shall remain in full force and effect thereafter until all Indebtedness contracted for or created before the receipt of such notice by RBC, and any extensions or renewals thereof (whether made before or after receipt of such notice) together with interest accruing thereon after such notice, shall be paid in full.

(l) The headings used in this Security Agreement are for convenience only and are not to be considered a part of this Security Agreement and do not in any way limit or amplify the terms and provisions of this Security Agreement.

(m) When the context so requires, the singular number shall be read as if the plural were expressed and the provisions hereof shall be read with all grammatical changes necessary dependent upon the person referred to being a male, female, firm or corporation.

(n) In the event any provisions of this Security Agreement, as amended from time to time, shall be deemed invalid or void, in whole or in part, by any Court of competent jurisdiction, the remaining terms and provisions of this Security Agreement shall remain in full force and effect.

(o) Nothing herein contained shall in any way obligate RBC to grant, continue, renew, extend time for payment of or accept anything which constitutes or would constitute Indebtedness.

(p) The Security Interest created hereby is intended to attach when this Security Agreement is signed by Debtor and delivered to RBC.

(q) Debtor acknowledges and agrees that in the event it amalgamates with any other company or companies it is the intention of the parties hereto that the term "Debtor" when used herein shall apply to each of the amalgamating companies and to the amalgamated company, such that the Security Interest granted hereby

(i) shall extend to "Collateral" (as that term is herein defined) owned by each of the amalgamating companies and the amalgamated company at the time of amalgamation and to any "Collateral" thereafter owned or acquired by the amalgamated company, and

(ii) shall secure the "Indebtedness" (as that term is herein defined) of each of the amalgamating companies and the amalgamated company to RBC at the time of amalgamation and any "Indebtedness" of the amalgamated company to

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RBC thereafter arising. The Security Interest shall attach to "Collateral" owned by each company amalgamating with Debtor, and by the amalgamated company, at the time of the amalgamation, and shall attach to any "Collateral" thereafter owned or acquired by the amalgamated company when such becomes owned or is acquired.

(r) In the event that Debtor is a body corporate, it is hereby agreed that The Limitation of Civil Rights Act of the Province of Saskatchewan, or any provision thereof, shall have no application to this Security Agreement or any agreement or instrument renewing or extending or collateral to this Security Agreement. In the event that Debtor is an agricultural corporation within the meaning of The Saskatchewan Farm Security Act, Debtor agrees with RBC that all of Part IV (other than Section 46) of that Act shall not apply to Debtor.

(s) This Security Agreement and the transactions evidenced hereby shall be governed by and construed in accordance with the laws of the province in which the herein branch of RBC is located, as those laws may from time to time be in effect, except if such branch of RBC is located in Quebec then, this Security Agreement and the transactions evidenced hereby shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

**15. COPY OF AGREEMENT**

(a) Debtor hereby acknowledges receipt of a copy of this Security Agreement.

(b) Debtor waives Debtor's right to receive a copy of any financing statement or financing change statement registered by RBC or of any verification statement with respect to any financing statement or financing change statement registered by RBC. (Applies in all P.P.S.A. Provinces except Ontario).

**16.** Debtor represents and warrants that the following information is accurate:

**BUSINESS DEBTOR**

NAME OF BUSINESS DEBTOR 2668144 ONTARIO INC.			
ADDRESS OF BUSINESS DEBTOR 104 VETERANS DR	CITY BRAMPTON	PROVINCE ONTARIO	POSTAL CODE L7A3Z7

IN WITNESS WHEREOF Debtor has executed this Security Agreement this 11<sup>th</sup> day February 2019

2668144 ONTARIO INC.

[Signature]  
WITNESSES

[Signature]  
Seal

[Signature]  
WITNESSES

[Signature]  
Seal

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**SCHEDULE "A"**  
**(ENCUMBRANCES AFFECTING COLLATERAL)**

?

AB

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SCHEDULE "B"

③

**1. Locations of Debtor's Business Operations**

104 VETERANS DR,  
BRAMPTON  
ONTARIO  
CA  
L7A3Z7

989 Ward Street,  
Bridgenorth, ON - K0L 1H0

④

**2. Locations of Records relating to Collateral**

104 VETERANS DR,  
BRAMPTON  
ONTARIO  
CA  
L7A3Z7

**3. Locations of Collateral**

104 VETERANS DR,  
BRAMPTON  
ONTARIO  
CA  
L7A3Z7

989 Ward Street  
Bridgenorth, ON K0L 1H0

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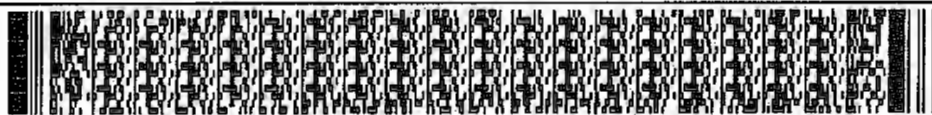
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**SCHEDULE "C"**  
**(DESCRIPTION OF PROPERTY)**

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*Handwritten mark*


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This is Exhibit "E" referred to  
in the Affidavit of Michael Foster  
Sworn this 30<sup>th</sup>  
day of June, 2023.

  
Rachel Moses (Jul 4, 2023 08:10 EDT)

.....  
A Commissioner for Taking Affidavits

Rachel Moses / LSO# 42081V

---

**Properties**

PIN 28425 - 0029 LT Interest/Estate Fee Simple  
 Description PT LT 12 CON 7 SMITH AS IN R503692 ; S/T R241248 SMITH-ENNISMORE  
 Address 989 WARD STREET  
 BRIDGENORTH

**Chargor(s)**

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

Name 2668144 ONTARIO INC.  
 Address for Service 104 Veterans Drive, Brampton, Ontario,  
 L7A 3Z7

I, SHAKIVE RAHAMAN and ASMINUR RAHAMAN, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

**Chargee(s)***Capacity**Share*

Name ROYAL BANK OF CANADA  
 Address for Service 36 York Mills Road, 4th Floor, Toronto, Ontario, M2P 0A4  
 SRF # 334-760-261

**Provisions**

Principal \$1,445,000.00 Currency CDN  
 Calculation Period  
 Balance Due Date  
 Interest Rate Prime + 5%  
 Payments  
 Interest Adjustment Date  
 Payment Date  
 First Payment Date  
 Last Payment Date  
 Standard Charge Terms 20015  
 Insurance Amount Full insurable value  
 Guarantor

**Signed By**

Lisa Dorn Nutter 1600-Four Robert Speck Pkwy acting for Signed 2019 03 04  
 Mississauga  
 L4Z 1S1 Chargor(s)

Tel 905-276-9111

Fax 905-276-2298

I have the authority to sign and register the document on behalf of the Chargor(s).

**Submitted By**

KEYSER MASON BALL LLP 1600-Four Robert Speck Pkwy 2019 03 05  
 Mississauga  
 L4Z 1S1

Tel 905-276-9111

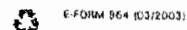
Fax 905-276-2298

**Fees/Taxes/Payment**

Statutory Registration Fee \$64.40  
 Total Paid \$64.40

**File Number**

Chargor Client File Number : 23508-05 JRL:LN  
 Chargee Client File Number : SRF # 334-760-261



CHARGE TERMS

**LAND REGISTRATION REFORM ACT  
SET OF STANDARD CHARGE TERMS  
FOR ELECTRONIC DOCUMENTS  
(COLLATERAL CHARGES)**

ROYAL BANK OF CANADA  
ROYAL TRUST CORPORATION OF CANADA

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CHARGE TERMS

## LAND REGISTRATION REFORM ACT

E-FORM 864 103/2003

 SET OF STANDARD CHARGE TERMS  
 FOR ELECTRONIC DOCUMENTS  
 (COLLATERAL CHARGES)

 ROYAL BANK OF CANADA  
 ROYAL TRUST CORPORATION OF CANADA

 Filed by:  
 ROYAL BANK OF CANADA and  
 ROYAL TRUST CORPORATION OF CANADA

 Filing Date: June 28, 2001  
 Filing Number: 20015

The following set of standard charge terms shall apply to electronic documents submitted for registration under Part III of the *Land Registration Reform Act*, R.S.O. 1990, c.L.4, as amended (the "Land Registration Reform Act") and shall be deemed to be included in every electronically registered charge in which this set of standard charge terms is referred to by its filing number, as provided in Section 9 of the Land Registration Reform Act.

Any charge in an electronic format of which this set of standard charge terms forms a part by reference to the above-noted filing number in such charge shall hereinafter be referred to as the "Charge". Whenever reference is made in this set of standard charge terms to the Charge it shall include this set of standard charge terms and all terms and provisions of this set of standard charge terms.

Any reference to the "Computer Field" in the Charge means a computer data entry field in a charge registered pursuant to Part III of the Land Registration Reform Act into which the terms and conditions of the Charge may be inserted.

## 1. CHARGE

The chargor or chargors indicated in the Computer Field of the Charge entitled "Chargor" (the "Chargor") charges the lands and premises indicated in the Computer Field of the Charge entitled "Description" (the "Charged Premises") with the payment to the chargee indicated in the Computer Field of the Charge entitled "Chargee" (the "Chargee") of the principal and interest and all other monies secured by the Charge upon the terms as set out in the Charge.

## 2. COLLATERAL SECURITY

The Chargor has at the request of the Chargee agreed to give the Charge as a continuing collateral security for payment and satisfaction to the Chargee of all obligations, debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, extended or renewed, at any time owing by the Chargor to the Chargee incurred or arising either before or after the delivery for registration of the Charge and whether incurred by or arising from agreement or dealings between the Chargor and the Chargee or from any agreement or dealings with any third party by which the Chargee may be or become in any manner whatsoever a creditor of the Chargor or however otherwise incurred or arising anywhere within or outside Canada and whether the Chargor be bound alone or with another or others and whether as principal or surety and any ultimate unpaid balance thereof and whether the same is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again (such obligations, debts and liabilities being herein called the "Liabilities"). It is agreed by the Chargor and the Chargee that the Charge at any one time will secure only that portion of the aggregate principal component of the Liabilities outstanding at such time which does not exceed the sum set out in the Computer Field in the Charge entitled "Principal" (herein called the "Principal Amount"), together with any interest or compound interest accrued on the portion of the Principal Amount outstanding at such time at the Charge Rate, as hereinafter defined, plus such costs and expenses to which the Chargee is entitled pursuant to the Charge.

## 3. COVENANTS REGARDING LIABILITIES

The Chargor and the Chargee agree as follows:

(a) That the Chargor covenants to pay to the Chargee each and every amount, indebtedness, liability and obligation forming part of the Liabilities in the manner agreed to in respect of such amount, indebtedness, liability or obligation.

(b) That no part of the Liabilities existing at the date of the Charge or incurred or arising thereafter, shall be deemed to be unsecured by the Charge.

(c) That the Charge is and shall be a continuing collateral security to the Chargee for the amount of the Liabilities and interest and costs as provided in the Charge and shall be deemed to be taken as security for the ultimate balance of the Liabilities; and the Charge shall not, nor shall anything therein contained operate so as to create any merger or discharge of any debt owing to the Chargee or of any lien, bond, promissory note, bill of exchange or other security held by the Chargee either before or after registration of the Charge from the Chargor or from any other person or persons and the Charge shall not in any way prejudicially affect any security held either before or after the registration of the Charge by the Chargee for the Liabilities or any part thereof, or the liability of any endorser or any other person or persons upon any such lien, bond, bill of exchange, promissory note or other security or contract or any renewal or renewals thereof held by the Chargee for or on account of the Liabilities or any part or parts thereof, nor shall the remedies of the Chargee in respect thereof be prejudiced or delayed in any manner whatsoever by the taking of the Charge.

(d) That any and all payments made in respect of the Liabilities and interest and the monies or other proceeds realized from the sale of any securities held therefor, including the Charge, may be applied and reapplied notwithstanding any previous application on such part or parts of such Liabilities or interest as the Chargee may see fit or may be held unappropriated in a separate collateral account for such time as the Chargee may see fit.

(e) That the Chargee may grant time, renewals, extensions, indulgences, releases and discharges to, may take securities and guarantees from and give the same and any and all existing securities and guarantees up to, may abstain from taking securities or guarantees from or from perfecting securities or guarantees of, may accept compositions from and may otherwise deal with the Chargor and all other persons, securities and guarantees as the Chargee may see fit without prejudicing the rights of the Chargee under the Charge.

(f) That the taking of judgment in respect of the Liabilities or any instrument or instruments now or hereafter representing or evidencing the Liabilities or under any of the covenants in the Charge or in any such instrument contained or implied shall not operate as a merger of the Liabilities or such instrument, instruments or covenants, nor affect the Chargee's right to interest at the rate and times provided in the Charge, nor affect nor prejudice any rights or remedies given to the Chargee by the terms of the Charge.

#### 4. INTEREST

##### (a) VARIABLE INTEREST RATE

If the interest rate indicated in the Computer Field of the Charge entitled "Rate" is based upon the Prime Rate, as hereinafter defined, the rate of interest chargeable on the Principal Amount is a rate equal to the Prime Rate per annum as the same will vary from time to time, plus the number of percentage points per annum, if any, indicated in the Computer Field of the Charge entitled "Rate" (the "Variable Interest Rate") and shall be payable monthly, and calculated monthly, not in advance, as well after as before maturity of the Charge, and both before and after default and judgment until paid.

The Variable Interest Rate will vary automatically, without notice to the Chargor, each time there is a change in the Prime Rate. The Variable Interest Rate will always be the Prime Rate plus the number of percentage points per annum, if any, indicated in the Computer Field of the Charge entitled "Rate", payable monthly and calculated monthly, not in advance, as well after as before maturity of the Charge and both before and after default and judgment until paid.

"Prime Rate" means the annual rate of interest announced from time to time by the Chargee being a reference rate then in effect for determining interest rates on Canadian dollar commercial loans in Canada. In the event that it may be necessary at any time for the Chargee to prove the Prime Rate applicable as at any time or times, it is agreed that the certificate in writing of the Chargee setting forth the Prime Rate as at any time or times shall be deemed to be conclusive evidence as to the Prime Rate as set forth in the said certificate.

##### (b) FIXED INTEREST RATE

If the interest rate indicated in the Computer Field of the Charge entitled "Rate" is a specified annual percentage not based on the Prime Rate (the "Fixed Interest Rate"), the rate of interest chargeable on the Principal Amount is that Fixed Interest Rate per annum, payable monthly, and calculated monthly, as well after as before maturity of the Charge, and both before and after default and judgment until paid.

(c) For the purposes of the Charge the Fixed Interest Rate or the Variable Interest Rate, as the case may be, are hereinafter referred to as the "Charge Rate". Whenever reference is made to the Charge Rate it shall mean the rate of interest indicated in the Computer Field of the Charge entitled "Rate", and interest shall be calculated and payable as set out in the Charge.

#### 5. DEFEASANCE

The provisions relating to defeasance contained in subsection 6(2) of the Land Registration Reform Act, shall be and are hereby expressly excluded from the terms of the Charge.

Provided the Charge shall be void upon the Chargor paying on demand to the Chargee the ultimate balance of the Liabilities, such balance not to exceed the Principal Amount, and all promissory notes, bills of exchange and any other instruments whatsoever from time to time representing the Liabilities or any part thereof, together with interest thereon either: a) where the Charge provides for a Variable Interest Rate, at the Variable Interest Rate per annum, calculated and payable monthly as well after as before maturity, default and judgment, with interest on overdue interest at the Charge Rate; or b) where the Charge provides for a Fixed Interest Rate, at the Fixed Interest Rate per annum, calculated and payable monthly as well after as before maturity, default and judgment, with interest on overdue interest at the same rate as on the Principal Amount and all other amounts payable by the Chargor under the Charge and paying any taxes, rates, levies, charges or assessments upon the Charged Premises no matter by whom or what authority imposed and observing and performing all covenants, provisos and conditions contained in the Charge.

#### 6. COMPOUND INTEREST

It is agreed that if default shall be made in payment of any sum to become due for interest at any time appointed for payment thereof, compound interest shall be payable and the sum in arrears for interest from time to time, as well after as before maturity, shall bear interest at the Charge Rate, and in case the interest and compound interest are not paid on the next payment date after the date of default a rest shall be made, and compound interest at the rate aforesaid shall be payable on the aggregate amount then due, as well after as before maturity, and so on from time to time, and all such interest and compound interest shall be a charge upon the Charged Premises and shall be secured by the Charge.

#### 7. TAXES

With respect to municipal taxes, school taxes and local improvement rates (hereinafter referred to as "taxes") chargeable against the Charged Premises, it is mutually agreed between the parties to the Charge that:

(a) The Chargee may deduct from any advance of monies to the Chargor an amount sufficient to pay the taxes which have become or will become due and payable at the date of such advance and are unpaid at the date of such advance.

(b) The Chargor shall pay to the Chargee in monthly instalments on the dates on which instalments of principal and interest are payable under the Charge, sums sufficient to enable the Chargee to pay the whole amount of taxes on or before the due date for payment thereof or, if such amount is payable in instalments, on or before the due date for payment of the first instalment of taxes.

(c) Where the period between the date of the advance and the end of the calendar year is less than one year the Chargor shall pay to the Chargee in equal monthly instalments, during such period and during the next succeeding 12 months period, an amount estimated by the Chargee to be sufficient to pay, on or before the expiration of the said 12 months period, all taxes which shall become due and payable during the said two periods and during the balance of the year in which the said 12 months period expires; and the Chargor shall also pay to the Chargee on demand the amount, if any, by which the actual taxes exceed such estimated amount.



E-FORM 964 (03/2003)

(d) Except as provided in the last preceding clause, the Chargor shall, in each and every month, pay to the Chargee one-twelfth of the amount (as estimated by the Chargee) of the taxes next becoming due and payable; and the Chargor shall also pay to the Chargee on demand the amount, if any, by which the said actual taxes exceed such estimated amount.

(e) The Chargee shall allow the Chargor interest on the average monthly balances standing in the Charge account from time to time to the credit of the Chargor for payment of taxes at a rate per annum, and at such times, as the Chargee may determine in its sole discretion; and the Chargor shall be charged interest at the Charge Rate, on the debit balance, if any, in the Charge account outstanding after payment of taxes by the Chargee, until such debit balance is fully repaid.

(f) The Chargor shall reimburse the Chargee, on demand, for any fees paid or charges incurred by the Chargee to a municipality or other tax authority from time to time in connection with the administration of the tax account, including any fees or charges for the obtaining of information or searches or certificates in respect thereof, or the payment of taxes in any manner and the Chargor authorizes the Chargee to deduct the amount of such fees or charges from the tax account.

The Chargee agrees to apply the foregoing deductions and payments to the taxes chargeable against the Charged Premises so long as the Chargor is not in default under any covenant, proviso or agreement contained in the Charge, but nothing contained in the Charge shall obligate the Chargee to apply such payments on account of taxes more often than yearly. Provided, however, that if, before any sum or sums so paid to the Chargee shall have been so applied, there shall be default by the Chargor in respect of any payment of principal or interest as provided in the Charge, the Chargee may apply such sum or sums in or towards payment of the principal and or interest in default. The Chargor further covenants and agrees to transmit to the Chargee the assessment notices, tax bills and other notices affecting the imposition of taxes forthwith after the receipt of same by the Chargor.

Notwithstanding the provisions set out in this section, the Chargee may elect not to require payment of taxes to it in which case the Chargor will pay all taxes as they fall due and will provide the Chargee with receipts confirming payment of same as the Chargee may require.

### 8. DEEMED COVENANTS EXCLUDED

The covenants deemed to be included in a charge by subsection 7(l) of the Land Registration Reform Act, shall be and are hereby expressly excluded from the terms of the Charge.

### 9. COVENANTS IN LIEU OF STATUTORY COVENANTS

The Chargor does hereby covenant, promise and agree to and with the Chargee as follows:

#### (a) To Pay and Observe Covenants

That the Chargor shall pay or cause to be paid to the Chargee, without deduction or abatement, the Principal Amount secured by the Charge with interest at the Charge Rate at the times and in the manner limited for payment thereof in the Charge, and shall do, observe, perform, fulfil and keep all the provisions, covenants, agreements and stipulations particularly set forth in the Charge, and, without limitation, shall pay any taxes, rates, levies, charges or assessments including, without limitation, utility charges, upon the Charged Premises or in respect thereof, no matter by whom or by what authority imposed, which the Chargee has paid or has been rendered liable to pay and shall also pay all other sums as the Chargee may be entitled to under the Charge.

#### (b) For Good Title

That the Chargor, at the time of delivery for registration of the Charge, is, and stands solely, rightfully and lawfully seized of a good, sure, perfect, absolute and indefeasible title in fee simple to the Charged Premises free of any trusts, reservations, limitations, provisos or conditions (except those contained in the original grant thereof from the Crown) or any other matter or thing to alter, charge, change, encumber or defeat the same.

#### (c) Right to Charge

That the Chargor has good right, full power and lawful and absolute authority to charge the Charged Premises with their appurtenances unto the Chargee in the manner set out in the Charge.

#### (d) Quiet Possession on Default

That from and after default in the payment of the Principal Amount, or the interest thereon, or any part thereof, or in the doing, observing, performing, fulfilling or keeping of one or more of the provisions, agreements or stipulations contained in the Charge, contrary to the true intent and meaning thereof, then in every such case, it shall be lawful for the Chargee, peaceably and quietly to enter into, have, hold, use, occupy, possess and enjoy the Charged Premises or the lands and premises intended to be charged by the Charge, with their appurtenances, without the lat, suit, hindrance, interruption or denial of the Chargor, or any other person or persons whomsoever, free and clear of all arrears of taxes and assessments whatsoever due or payable upon or in respect of the Charged Premises or any part thereof and of and from all former conveyances, mortgages, charges, rights, annuities, debts, executions and recognizance and of any other charges or encumbrances whatsoever.

#### (e) Further Assurances

That from and after default shall happen to be made of or in the payment of the Principal Amount then outstanding, or the interest thereon, or any part of the Principal Amount or interest, as set forth in the Charge or of or in the doing, observing, performing, fulfilling or keeping of some one or more of the provisions, agreements or stipulations in the Charge contrary to the true intent and meaning thereof, then and in every such case the Chargor, and all and every person or persons whatsoever having, or lawfully claiming, or who shall or may have or lawfully claim any estate, right, title, interest or trust of, in, to or out of the Charged Premises by, from, under or in trust for the Chargor, shall and will, from time to time, and at all times thereafter, make, do, suffer and execute, deliver, authorize and register or cause or procure to be made, done, suffered, executed, delivered, authorized and registered, all and every such further and other reasonable act or acts, deed or deeds, devices, conveyances and assurances in the law for the further, better and more perfectly and absolutely conveying, charging and assuring the Charged Premises unto the Chargee, as by the Chargee, or its solicitor shall or may be lawfully and reasonably devised, advised, or required.

## (f) Done No Act to Encumber

That the Chargor has not at any time heretofore made, done, committed, executed or wilfully or knowingly suffered any act, deed, matter or thing whatsoever whereby the Charged Premises or the premises intended to be charged by the Charge, or any part thereof, are, is or shall or may be in any way impeached, charged, affected or encumbered in title, estate, or otherwise howsoever.

## (g) Insurance

- i) That the Chargor will forthwith insure and during the continuance of the Charge keep insured in favour of the Chargee against loss or damage by fire, lightning, windstorm, hail, earthquake, explosion, impact, vandalism, malicious acts, civil disturbance or riot, smoke, falling objects and other risks, hazards and perils which the Chargee might require to the full extent of their replacement cost in lawful money of Canada, each and every building on the Charged Premises and which may hereafter be erected thereon, both during erection and thereafter, and all fixtures as hereinafter defined or referred to, and all other risks, hazards and perils of any nature or kind which the Chargee might require depending on the nature of the Charged Premises or the use thereof, with a company or companies approved by the Chargee and shall pay all premiums and sums of money necessary for such purpose as the same shall become due; each policy of insurance shall provide that loss, if any, shall be payable to the Chargee as its interest may appear, subject to a standard form of mortgage clause or other mortgage clause approved by the Chargee and the Chargor will forthwith assign, transfer and deliver over unto the Chargee the policy of insurance and receipts thereto appertaining; and if the Chargor shall neglect to keep the said buildings or any of them insured as aforesaid, or to deliver such policies and receipts or to produce to the Chargee at least fifteen days before the termination of any insurance, evidence of renewal thereof, the Chargee shall be entitled, but shall not be obliged, to insure the said buildings or any of them, and if the Chargee shall pay any premiums or sums of money for insurance for the Charged Premises or any part thereof the amount of such payment shall be added to the debt secured by the Charge and shall bear interest at the Charge Rate from the time of such payments and shall be payable at the time appointed for the next ensuing payment of interest on the said debt; and the Chargor shall forthwith on the happening of any loss or damage, furnish at the Chargor's own expense all necessary proofs and do all necessary acts to enable the Chargee to obtain payment of the insurance monies and the production of a printed copy of the Charge shall be sufficient authority for the said insurance company to pay any such loss to the Chargee, and the said insurance company is hereby directed thereupon to pay the same to the Chargee; and any insurance monies received may, at the option of the Chargee, be applied in rebuilding, reinstating or repairing the Charged Premises or be paid to the Chargor or any other person appearing by the registered title to be or to have been the owner of the Charged Premises or be applied or paid partly in one way and partly in another, or it may be applied, in the sole discretion of the Chargee, in whole or in part on account of the amounts secured by the Charge or any part thereof whether due or not then due.
- (ii) If the Charged Premises are part of a Condominium the insurance provisions set out in paragraph (a) above will not apply and the following will apply to the Charge:

That the Chargor or the Condominium Corporation or both of them will forthwith insure and during the continuance of the Charge keep insured in favour of the Chargee against loss or damage by fire, lightning, windstorm, hail, explosion, impact, vandalism, malicious acts, earthquake, civil disturbance or riot, smoke, falling objects and other risks, hazards and perils which the Chargee might require to the full extent of their replacement cost in lawful money of Canada, each and every building on the said land and which may hereafter be erected thereon, both during erection and thereafter and all fixtures as hereinafter defined or referred to and all other risks, hazards and perils of any nature or kind which the Chargee might require depending on the nature of the Charged Premises or the use thereof, with a company or companies approved by the Chargee; and the Chargor will forthwith assign, transfer and deliver unto the Chargee the policy or policies of insurance and receipts thereof appertaining and if the Chargor or Condominium Corporation or both of them shall neglect to keep the said buildings or any of them insured as aforesaid, or to deliver such policies and receipts or produce to the Chargee at least fifteen days before the termination of any insurance, evidence of renewal thereof the Chargee shall be entitled but shall not be obligated to insure the said buildings or any of them; and the Chargor or the Condominium Corporation or both of them shall forthwith on the happening of any loss or damage comply fully with the terms of the policies of insurance and, without limiting the generality of the obligation of the Chargor to observe and perform all the duties and obligations imposed on him by the Condominium Act, R.S.O. 1990, c.L.26, as amended or replaced (the "Condominium Act") and by the Declaration and By-laws of the Condominium Corporation as hereinafter provided, shall comply with the insurance provisions of the Declaration; and the Chargor as a member of the Condominium Corporation shall seek the full compliance by the Condominium Corporation of the aforementioned covenants.

## 10. RELEASE

The Chargor has released, remised and forever quitted claim, and by these presents does release, remise, and forever quit claim unto the Chargee, all right, title, interest, claim and demand whatsoever of, in, unto and out of the Charged Premises and every part thereof, so as that the Chargor shall not or may not at any time hereafter have, claim, pretend to, challenge or demand the Charged Premises or any part thereof, in any manner howsoever, subject always to the proviso for defeasance.

**11. ENTRY AFTER DEFAULT AND POWER OF SALE**

Provided that the Chargee on default by the Chargor of payment of the portion of the Principal Amount then outstanding and interest or any part thereof required by the Charge or in the observing, performing, fulfilling or keeping of one or more of the covenants of the Chargor provided in the Charge may enter into possession of the Charged Premises or the lands and premises intended to be charged and take the rents, issues and profits and, whether in or out of possession, make such lease or leases as it shall think fit, and also on fifteen days' default as aforesaid and after giving at least thirty-five days' written notice to the persons and in the manner prescribed by Part III of the Mortgages Act, R.S.O. 1990, c. M.40, as amended (the "Mortgages Act"), may sell the Charged Premises or the lands and premises intended to be charged by the Charge or any part or parts thereof by public auction or private contract, or partly the one and partly the other, and may convey and assure the same when so sold to the purchaser or purchasers thereof as the purchaser shall direct and may do all such assurances, acts, matters and things as may be found necessary for the purposes aforesaid, and the Chargee shall not be responsible for any loss which may arise by reason of any such leasing or sale as aforesaid unless the same shall happen by reason of its wilful neglect or default. In the event that the giving of such notice shall not be required by law or to the extent that such requirements shall not be applicable it is agreed that notice may be effectually given by leaving it with a grown-up person on the Charged Premises, if occupied, or by placing it on some portion of the Charged Premises, if unoccupied, or at the option of the Chargee, by mailing it by registered mail addressed to the Chargor at the Chargor's last known address and such notice shall be sufficient although not addressed to any person or persons by name or designation and notwithstanding that any person or persons to be affected thereby may be unknown, unascertained or under disability. It is hereby further agreed that the proceeds of sale under the Charge may be applied in payment of any costs, charges and expenses incurred in taking, recovering or keeping possession of the Charged Premises or by reason of non-payment or procuring payment of monies, secured hereby or otherwise, and that the Chargee may sell all or any part of the Charged Premises on such terms as to credit and otherwise as shall appear to it most advantageous and for such price as can reasonably be obtained therefor and may make any stipulation as to title or evidence or commencement of title or otherwise which it may deem proper, and may buy in or rescind or vary any contract for the sale of the whole or any part of the Charged Premises and resell without being answerable for loss occasioned thereby, and, in the case of a sale on credit, the Chargee shall be bound to pay the Chargor only such monies as have been actually received from purchasers after the satisfaction of the claims of the Chargee and for any of said purposes may make and execute all agreements and assurances as it shall think fit. Any purchaser or lessee shall not be bound to see to the propriety or regularity of any sale or lease or be affected by express notice that any sale or lease is improper and no want of notice or publication when required hereby shall invalidate any sale or lease under the Charge; and that the title of a purchaser or lessee upon a sale or lease made in professed exercise of the above power shall not be liable to be impeached on the ground that no case had arisen to authorize the exercise of such power or that such power had been improperly or irregularly exercised, or that such notice had not been given in compliance with the Mortgages Act, or had been given improperly, but any person damaged by an unauthorized, improper, or irregular exercise of the power shall have his remedy against the person exercising the power in damages only. The Chargee may sell fixtures, machinery, crops and standing or fall-trees apart from the lands, and the purchaser as well as the Chargee shall have all necessary access for securing, cutting and removal. It is agreed between the parties to the Charge that nothing in this section contained shall prejudice or diminish any other rights and remedies and powers of the Chargee in the Charge contained or existing at law by virtue thereof.

And it is further agreed between the parties to the Charge that until such sale or sales shall be made as aforesaid, the Chargee shall and will stand possessed of the rents and profits of the Charged Premises in case it shall take possession of them on default as aforesaid and after such sale or sales shall stand possessed of the monies to arise and be produced from such sales, or which might arise from any insurance upon the Charged Premises or any part thereof upon trust firstly in payment of all the expenses incident to the sales, leases, conveyances, or attempted sales, leases or conveyances, secondly in payment of all costs, charges, damages and expenses of the Chargee relating to taxes, rents, insurance, repairs, utilities and any other amounts which the Chargee may have paid relating to the Charged Premises,

thirdly in discharge of all interest and costs then due in respect of the Charge, fourthly in discharge of the portion of the Principal Amount then outstanding secured by the Charge, fifthly in payment of any subsequent encumbrances according to their priorities and the residue shall be paid to the Chargor as the Chargor may direct and shall also, in such event, at the request, cost and expense of the Chargor, transfer, release and assure unto the Chargor or to such person or persons as the Chargor shall direct and appoint, all such parts of the Charged Premises as shall remain unsold for the purposes aforesaid, discharged from all the Charge, but no person who shall be required to make or execute any such assurances shall be compelled for the making thereof to go or travel from his usual place of abode. Provided always, and it is hereby further declared and agreed by and between the parties to the Charge, that notwithstanding the power of sale and the other powers and provisions contained in the Charge, the Chargee shall have and be entitled to its right of foreclosure of the fee interest or equity of redemption of the Chargor in the Charged Premises as fully and effectually as it might have exercised and enjoyed the same in case the power of sale, and the other former provisions and trusts incident thereto had not been contained in the Charge.

**12. DISTRESS**

Provided that and it is further stipulated, provided and agreed by and between the parties to the Charge that the Chargee may distress for arrears of interest against the Charged Premises or any part thereof and recover by way of rent reserved as in the case of a demise the arrears of interest and all costs and expenses incurred in such levy or distress and may also distress for arrears of principal and monthly payments of taxes, if required, in the same manner as if the same were arrears of interest.

**13. PRINCIPAL DUE ON DEFAULT OF PERFORMANCE OF COVENANTS**

It is agreed by the Chargor and the Chargee that if any default shall occur in the performance of any covenant, proviso or agreement contained in the Charge or if any waste be committed or suffered on the Charged Premises, then, at the option of the Chargee, the principal amount secured by the Charge shall forthwith become due and payable subject to any relief afforded to the Chargor at law. The Chargee may, however, waive its right to call in the Principal Amount or any portion thereof then outstanding and shall not be therefore debarred from asserting and exercising its right to call in the principal amount upon the happening of any future default or breach.

**14. CHARGOR'S QUIET POSSESSION UNTIL DEFAULT**

Provided and it is agreed that until default in the payment of principal or interest secured by the Charge or intended so to be, or any part of either of the same, or in the performance of any of the provisions set forth in the Charge contrary to the true intent and meaning thereof, it shall be lawful for the Chargor peaceably and quietly to have, hold, use, occupy, possess and enjoy the Charged Premises, and receive and take the rents and profits thereof to the Chargor's own use and benefit, without let, suit, hindrance, interruption, or denial by the Chargee, or of or by any other person or persons whomsoever lawfully claiming, or who shall, or may lawfully claim by, from, under or in trust for the Chargee.

**15. BUILDINGS, ADVANCES AND COST OF SEARCH**

It is the intention of the parties to the Charge that the building or buildings erected or to be erected on the Charged Premises form part of the security for the full amount of the monies secured by the Charge; and that all advances are to be made in such manner, at such times and in such amounts up to the full amount of said monies as the Chargee, in its sole discretion, may determine. The Chargor agrees that notwithstanding the Chargor's authorization of registration and the registration of the Charge or the advancement of any part of the monies, the Chargee is not bound to advance the monies or any unadvanced portion thereof and the advance of the monies and any part thereof from time to time shall be in the sole discretion of the Chargee, but nevertheless the Charge shall take effect forthwith upon the delivery for registration of the Charge and the expenses of the examination of the title and of the Charge and valuation are to be secured hereby, the same to be charged by the Charge upon the Charged Premises and shall be without demand thereof, payable forthwith with interest at the Charge Rate and in default the Chargee's power of sale hereby given, and all other remedies under the Charge or at law shall be exercisable.

**16. FIXTURES**

It is hereby mutually covenanted and agreed by and between the Chargor and the Chargee that all erections and improvements fixed or otherwise either on the date of delivery for registration of the Charge or thereafter put upon the Charged Premises, including but without limiting the generality of the foregoing, all fences, heating, piping, plumbing, aerials, air conditioning, ventilating, lighting and water heating equipment, cooking and refrigeration equipment, cleaning and drying equipment, window blinds, radiators and covers, fixed mirrors, fitted blinds, storm windows and storm doors, window screens and screen doors, shutters and awnings, floor coverings, and all apparatus and equipment appurtenant thereto, and all farm machinery and improvements, fixed or otherwise and even though not attached to the lands otherwise than by their own weight, are and shall, in addition to other fixtures thereon, be and become fixtures and form part of the Charged Premises and shall be a portion of the security for the amounts secured by the Charge.

**17. PARTIAL RELEASE**

Provided that the Chargee may at all times release any part or parts of the Charged Premises or any other security or any surety for payment of all or any part of the monies secured by the Charge or may release the Chargor or any other person from any covenant or other liability to pay the said monies or any part thereof, either with or without any consideration therefor, and without being accountable for the value thereof or for any monies except those actually received by the Chargee and without thereby releasing any other part of the Charged Premises, or any other securities or covenants contained in the Charge, it being especially agreed that notwithstanding any such release the Charged Premises, securities and covenants remaining unreleased shall stand charged with the whole of the monies secured by the Charge and all legal and other expenses incurred by the Chargee in connection with such release or releases.

**18. DEFAULT IN PRIOR CHARGES**

It is hereby agreed by and between the Chargor and the Chargee that should default be made by the Chargor in the observance or performance of any of the covenants, provisos, agreements or conditions contained in any mortgage, charge, lien or other encumbrance to which the Charge is subject or subordinate, then and in that event the monies secured by the Charge shall forthwith become due and be payable, at the option of the Chargee, and all the powers in and by the Charge conferred shall become exercisable, and the powers of sale contained in the Charge may be exercised as therein provided.

**19. LIENS AND CONSTRUCTION**

Provided also that upon the registration of any lien against the Charged Premises, or in the event of any buildings being erected thereon being allowed to remain unfinished or without any work being done on them for a period of ten (10) days, the portion of the Principal Amount then outstanding and interest and all other amounts secured by the Charge shall, at the option of the Chargee, forthwith become due and payable. In the event that a construction lien is registered against the Charged Premises, the Chargee shall have the right, but not the obligation to pay into court such amounts as may be required to remove the lien from title to the Charged Premises. Any amounts so paid by the Chargee, together with all expenses incurred by the Chargee in connection therewith, including all solicitor's charges or commissions, as between a solicitor and his client, shall be added to the debt secured by the Charge and shall bear interest at the Charge Rate and shall, with such interest, be a charge on the Charged Premises prior to all claims thereon subsequent to the Charge and shall be payable forthwith on demand.

**20. WASTE, VACANCY, REPAIR AND BUILDING COMPLETION**

The Chargor covenants and agrees with the Chargee that the Chargor will not permit waste to be committed or suffered on the Charged Premises and that the Chargor will maintain the buildings or other improvements on the Charged Premises in good order and repair to the satisfaction of the Chargee and will not permit or suffer them to become or remain vacant and the Chargee may, but shall not be obliged to, make such repairs, improvements and alterations as it may deem necessary or complete the construction or reconstruction of any building on the Charged Premises, and the cost of repair, construction or reconstruction shall be added to the debt secured by the Charge and shall bear interest at the Charge Rate and shall, with such interest, be a charge on the Charged Premises prior to all claims thereon subsequent to the Charge and shall be payable forthwith on demand.

**21. INSPECTION**

The Chargee, its agent, employees, and independent contractors may, at any time, enter upon the Charged Premises to fully inspect the Charged Premises and where deemed necessary and/or advisable by the Chargee, notwithstanding section 14 hereof, to conduct investigations including intrusive testing and sampling on the Charged Premises for the purpose of determining the presence of or the potential for environmental contamination and the reasonable cost of such inspection shall be added to the debt secured by the Charge and shall bear interest at the Charge Rate, and shall, with such interest, be a charge on the Charged Premises prior to all claims thereon subsequent to the Charge and shall be payable forthwith on demand.

**22. ALTERATIONS**

The Chargor covenants and agrees with the Chargee that the Chargor will not make or permit to be made any alterations or additions to the Charged Premises without the prior written consent of the Chargee.

**23. PROHIBITION AGAINST RENTAL**

If the Charged Premises are or are intended to be used as residential premises then the following provisions shall apply:

(a) The Chargor represents, warrants, covenants and agrees that no part of the Charged Premises are rented or occupied by a Tenant (as defined herein) and further covenants and agrees not to rent, lease, enter into a tenancy agreement or allow occupancy by a Tenant of the whole or any part of the Charged Premises (any of the aforesaid being hereinafter referred to as "Renting") without first obtaining the consent in writing of the Chargee which consent may be refused at the sole discretion of the Chargee; further the Chargor covenants and agrees not to enter into any negotiations with respect to Renting without the consent in writing of the Chargee, which consent may be refused, restricted or made conditional at the sole discretion of the Chargee; if a restricted or conditional consent to Renting or negotiations relating to Renting is given, the Chargor covenants and agrees to abide by such restrictions or conditions;

(b) The Renting of the whole or any part of the Charged Premises without the written consent of the Chargee shall be deemed to have been done with the object of discouraging the Chargee from taking possession of the Charged Premises on default or adversely affecting the value of the Chargee's interest in the Charged Premises within the meaning of Section 52(1) of the Mortgages Act.

(c) In the event that any of the covenants contained in this section shall be breached then, at the option of the Chargee, all monies hereby secured with accrued interest thereon shall forthwith become due and payable;

(d) If the whole or any part of the Charged Premises are rented to a Tenant with or without the consent of the Chargee, at such time as the Chargee is entitled to enforce its rights under the Charge by reason of default of the Chargor, the Chargee may, at its discretion, pay to any Tenant a sum of money, in such amount as it considers advisable, as consideration for obtaining the cooperation of such Tenant in selling the Charged Premises, showing the Charged Premises and obtaining possession from the Tenant or for any one or more of the above. It is recognized that the payment of such amount will be a cost of realization on this security and the amount so paid shall be added to the debt hereby secured and be a charge on the Charged Premises and shall bear interest at the Charge Rate and shall have priority over all encumbrances subsequent to the Charge and shall be payable forthwith by the Chargor to the Chargee; the Chargor appoints the Chargee to be its true and lawful attorney and agent to enforce all the terms of any tenancy agreement entered into by the Chargor with respect to all or any part of the Charged Premises and to cancel or terminate any such tenancy agreement and in this connection to make, sign and execute any and all documents in the name of the Chargor which it, as Chargee, may consider desirable;

(e) When used in this section Tenant shall have the meaning set out in Section 1 of the Tenancy Protection Act, 1997, S.O. 1997, c.24, as amended.

**24. NON-MERGER**

Provided and it is agreed, that the taking of a judgment or judgments on any of the covenants contained in the Charge shall not operate as a merger of the said covenant or affect the Chargee's right to interest at the rate and times provided in the Charge; and further that said judgement shall provide that interest thereon shall be computed at the Charge Rate and in the same manner as provided in the Charge until the said judgement shall have been fully paid and satisfied.

**25. RIGHTS ON DEFAULT**

And the Chargor covenants and agrees with the Chargee that in the event of default in the payment of any instalment of principal, interest or taxes secured by the Charge or any other monies payable under the Charge by the Chargor or on breach of any covenant, proviso or agreement contained in the Charge after all or any part of the monies secured by the Charge have been advanced, the Chargee may at such time or times as it may deem necessary and without the concurrence of any other person enter upon the Charged Premises and may make such arrangements for completing the construction of, repairing or putting in order any buildings or other improvements on the Charged Premises, or for inspecting, taking care of, leasing, collecting the rents of, and managing generally the Charged Premises, and for environmental remediation to bring the Charged Premises into compliance with recognized environmental standards, statutory or otherwise, as it may deem expedient, and all reasonable costs, charges and expenses including allowances for the time and services of any employee of the Chargee or other person appointed for the above purposes shall be forthwith payable by the Chargor to the Chargee, and shall be a charge upon the Charged Premises prior to all claims thereon subsequent to the Charge and shall bear interest at the Charge Rate until paid.

**26. OBLIGATIONS SURVIVE SALE**

Provided further that no sale or other dealing by the Chargor with the Charged Premises or any part thereof shall in any way change the liability of the Chargor or in any way alter the rights of the Chargee as against the Chargor or any other person liable for payment of the monies secured by the Charge.

**27. DUE ON SALE**

Provided that in the event of the Chargor selling, conveying, transferring, or entering into any agreement of sale or transfer of the title of the Charged Premises then, at the option of the Chargee, all monies secured by the Charge shall forthwith become due and payable.

**28. PRIOR ENCUMBRANCES**

It is further stipulated, provided and agreed, that the Chargee may pay the amount of any encumbrance, lien or charge existing now or existing after the date of the Charge, or to arise or to be claimed upon the Charged Premises having priority over the Charge, including, without limitation, any taxes, utility charges or other rates on the Charged Premises, any construction lien, or any amounts payable to a Condominium Corporation, and may pay all costs, charges and expenses and all solicitor's charges or commissions, as between a solicitor and his client, which may be incurred in taking, recovering and keeping possession of the Charged Premises and generally in any proceedings or steps of any nature whatever properly taken in connection with or to realize upon this security, or in respect of the collection of any overdue interest, principal, insurance premiums or any other monies whatsoever payable by the Chargor under the Charge whether any action or any judicial proceedings to enforce such payments has been taken or not, and the amount so paid and insurance premiums for fire or other risks or hazards and any other monies paid under the Charge by the Chargee shall be added to the debt secured by the Charge and be a charge on the Charged Premises and shall bear interest at the Charge Rate, and shall be payable forthwith by the Chargor to the Chargee, and the non-payment of such amount shall be a default of payment within the meaning of those words in the paragraph dealing with power of sale and shall entitle the Chargee to exercise the power of sale and all other remedies hereby given. In the event of the Chargee paying the amount of any such encumbrance, lien or charge, taxes or rates, either out of the monies advanced on the security or otherwise, it shall be entitled to all the rights, equities and securities of the person or persons, company, corporation, or government so paid off, and is hereby authorized to retain any discharge thereof, without registration, for a longer period than six months if it thinks proper to do so.

**29. ONTARIO NEW HOME WARRANTIES PLAN ACT**

If the Chargee incurs any cost or expense of any nature or kind in any way arising from or relating to the Ontario New Home Warranties Plan Act, R.S.O. 1990, c.O.31, as amended (the "ONHWPA"), including, without any limitation whatsoever, any cost or expense relating to registration as a vendor under the ONHWPA or enrolling the Charged Premises or entering into any agreement or agreements relating to performance of warranty obligations or performing any warranty obligations, all such cost and expense shall be added to the debt hereby secured and be a charge on the Charged Premises in priority to all other encumbrances registered or arising subsequent to the Charge and shall bear interest at the Charge Rate and shall be payable forthwith by the Chargor to the Chargee.

**30. EXTENSIONS**

Provided that no extension of time given by the Chargee to the Chargor, or anyone claiming under the Chargor or any other dealing with the owner of the Charged Premises, shall in any way affect or prejudice the rights of the Chargee against the Chargor or any other person liable for the payment of the monies hereby secured.

**31. DISCHARGE**

The Chargee shall have a reasonable time after payment in full of the monies secured by the Charge within which to prepare and register a discharge or, if requested, and if required by law to do so, an assignment of the Charge, and interest as aforesaid shall continue to run and accrue until actual payment in full has been received by the Chargee and all legal and other expenses for the preparation and registration of such discharge or assignment and any administrative charge or fee of the Chargee shall be borne by the Chargor.

**32. OTHER SECURITY**

The Charge is in addition to and not in substitution for any other security held by the Chargee including any promissory note or notes for all or any part of the monies secured under the Charge, and it is understood and agreed that the Chargee may pursue its remedies thereunder or under the Charge either concurrently or successively at its option. Any judgment or recovery under the Charge or under any other security held by the Chargee for the monies secured by the Charge shall not affect the right of the Chargee to realize upon this or any other such security.

Without limiting the generality of the foregoing, the Charge is in addition to, and not in substitution for, any other charges now or hereafter held by the Chargee over the Charged Premises as security for monies secured under the Charge or any other monies due to the Chargee.

It is understood and agreed that the aggregate of principal amounts secured by the Charge and any such other charges shall be the aggregate of the Principal Amount of the Charge and the principal amounts secured under any such other charges.

**33. PLACE OF PAYMENT AND WITHHOLDINGS FROM PAYMENTS**

(a) **Place of Payment.** Provided that all such payments secured by the Charge shall be made at the branch of the said Chargee designated in the Charge, or at such other place as the Chargee may designate in writing to the Chargor, in lawful money of Canada.

(b) **Withholdings from Payments.** If the Chargor is required by law to make any deduction or withholding from any sum payable by the Chargor to the Chargee under the Charge, then the sum payable by the Chargor in respect of which such deduction or withholding is required to be made shall be increased to the extent necessary to assure that, after the making of such deduction or withholding, the Chargee receives and retains (free from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or been required to be made; and the Chargor shall pay the full amount to be deducted or withheld to the relevant taxation or other authority within the time allowed for such payment under applicable law and shall deliver to the Chargee within thirty days after the Chargor has made such payment to the applicable authority a receipt issued by such authority evidencing such payment.

(c) Tax on Loan. The Chargor shall pay to the Chargee, on demand, the amount of any income, corporate, withholding or similar taxes (other than the Chargee's income taxes) (the "Income Taxes") that may be imposed upon or in respect of the Principal Amount from time to time outstanding, together with interest thereon that the Chargee may be called upon to pay, together with interest from the date on which such Income Taxes are paid by the Charge at the rate and compounded in the manner provided in the Charge.

#### 34. SPOUSE'S CONSENT

The spouse of the Chargor so named in the Charge hereby consents to the transaction evidenced by the Charge and releases all interest in the Charged Premises to the extent necessary to give effect to the rights of the Chargee under the Charge, and agrees that the Chargee may, without further notice, deal with the Charged Premises and the debt created by the Charge as the Chargee may see fit.

#### 35. FAMILY LAW ACT

The Chargor covenants and agrees that:

(a) the Chargor or the owner from time to time of the Charged Premises will advise and keep advised the Chargee as to whether the Chargor or the owner from time to time is a spouse as defined in the Family Law Act, R.S.O. 1990, c. F.3, as amended (the "Family Law Act"), and if so, the name of the Chargor's spouse, and of any change in the Chargor's spousal status or in the status of the Charged Premises as a matrimonial home within the meaning of the Family Law Act, and

(b) forthwith on request the Chargor will furnish the Chargee with such evidence in connection with any of the matters referred to in clause (a) above as the Chargee may from time to time require, including, without limitation, the Chargor's and the Chargor's spouse's name, address and birth date and the Chargor's and the Chargor's spouse's authorization to the Registrar under the Vital Statistics Act, R.S.O. 1990, c.V.4, as amended, to provide the Chargee from time to time on request all information in its possession relative to any marriage, divorce or death of the Chargor or the Chargor's spouse, and on default the Principal Amount, interest and all other monies secured by the Charge shall, at the option of the Chargee, forthwith become due and payable.

#### 36. SEVERABILITY OF ANY INVALID PROVISIONS

It is agreed that in the event that at any time any provision of the Charge is illegal or invalid under or inconsistent with the provisions of any applicable statute or regulation thereunder or any other applicable law, or would by reason of the provisions of any such statute or regulation or other applicable law render the Chargee unable to collect the amount of any loss sustained by it as a result of making the advances secured by the Charge which it would otherwise be able to collect under such statute or regulation or other applicable law, then such provision shall not apply and shall be construed so as not to apply to the extent that it is so illegal, invalid or inconsistent or would so render the Chargee unable to collect the amount of any such loss.

#### 37. NO PREJUDICE FROM FAILURE TO ENFORCE RIGHTS

Provided that no failure to enforce at any time or from time to time any of the rights of the Chargee under the Charge shall prejudice such rights or any other rights of the Chargee; no performance or payment by the Chargee in respect of any breach or default under the Charge of the Chargor shall relieve the Chargor from any default thereunder; and no waiver at any time or from time to time of any such rights of the Chargee shall prejudice such rights in the event of any future default or breach.

#### 38. FARM LANDS

If the Charged Premises are farm lands, the Chargor will in each year during the currency of the Charge either put into crop or summer fallow in good, proper and husbandlike manner every portion of the Charged Premises which has been or may hereafter be brought under cultivation, and will keep the Charged Premises clean and free from all noxious weeds and generally see that the Charged Premises do not depreciate in any way.

#### 39. CHANGE OF CORPORATE CONTROL

Where the Chargor is a corporation the Chargor covenants and agrees that in the event that:

(a) the Chargor fails to supply to the Chargee, in a form satisfactory to the Chargee, such information relating to the ownership of its shares as the Chargee may from time to time require; or

(b) without the written consent of the Chargee first had and obtained,

(i) the Chargor issues or redeems any of its shares or transfers any of its shares,

(ii) there is a sale or sales of the shares of the Chargor which result in the transfer of the legal or beneficial interest of any of the shares of the Chargor, or

(iii) the Chargor amalgamates, merges or consolidates with any other corporation,

and the result of any of the foregoing is a change in the effective control of the majority of the voting shares of the Chargor, then all monies secured by the Charge together with accrued interest thereon shall forthwith become due and payable at the option of the Chargee and the Chargee's powers of sale hereby given and all other remedies for enforcement shall be exercisable.

## 40. COMPLIANCE WITH THE LAW AND ENVIRONMENTAL COMPLIANCE

The Chargor hereby represents and warrants to the Chargee that:

(a) there is not in, on or about the Charged Premises any product or substance or condition (including, without restriction, contaminants, wastes, moulds or hazardous or toxic materials), equipment or anything else which contravenes any statute, regulation, by-law, order, direction or equivalent relating to the protection of the environment or which is not being dealt with according to best recognized practices relating to the environment;

(b) to the best of the knowledge of the Chargor, no circumstance has existed on the Charged Premises or exists or has existed on any land adjacent to the Charged Premises which constitutes or could reasonably constitute contravention of any statute, regulation, order, by-law, direction or equivalent relating to the protection of the environment;

(c) no claim or notice of any action, investigation or proceeding of any kind has been threatened, made or issued or is pending relating to an environmental condition on the Charged Premises; and

(d) the Charged Premises are being used in compliance with all statutes, regulations, orders, by-laws, directions and equivalent relating to the protection of the environment.

The Chargor hereby covenants and agrees with the Chargee as follows:

(a) the Chargor shall give to the Chargee immediate notice of any material change in circumstances in respect of the Charged Premises or adjacent land which would cause any of the representations and warranties contained in the immediately preceding paragraphs (a) to (d) inclusive to become untrue; and

(b) the Chargor shall not permit or create, and shall not allow anyone else to permit or create, any circumstance on the Charged Premises which would constitute or could reasonably constitute a contravention of any statute, regulation, order, by-law, direction or equivalent relating to the protection of the environment.

The Chargor further covenants and agrees with the Chargee at all times promptly to observe, perform, execute and comply with all applicable laws, rules, requirements, orders, directions, by-laws, ordinances, work orders, regulations and equivalent of every government authority dealing with zoning, use, occupancy, subdivision, parking, historical designations, fire, access, loading facilities, landscaped area, pollution of the environment, contaminants, wastes, hazardous or toxic materials, building construction, public health and safety, and all private covenants and restrictions affecting the Charged Premises or any portion thereof and the Chargor shall from time to time, upon request of the Chargee, provide to the Chargee evidence of such observance and compliance and pay immediately when due the cost of removal of any such contaminants, wastes and materials, and shall at its own expense make any and all improvements thereon or alterations to the Charged Premises structural or otherwise and shall take all such other action as may be required at any time by any such present or future law, rule, requirement, order, direction, by-law, ordinance, work order, regulation, covenant or equivalent; and the Chargor shall cause its tenants, agents and invitees to comply with all the foregoing at their own expense.

The Chargor shall indemnify and hold harmless the Chargee (and its directors, officers, employees and agents) from and against all loss, cost, damage or expenses (including, without limitation, legal fees and costs incurred in the investigation, defence and settlement of any claim) due to the Chargor's failure to comply with any of the covenants and agreements in this clause, or due to the presence of any contaminant, waste, mould or hazardous or toxic material referred to in this clause, as well as any lien or priority asserted with respect thereto, and this indemnity shall survive the discharge of the Charge or the release from the Charge of part or all of the Charged Premises.

## 41. CONDOMINIUMS

If the Charge is of a unit or units within a Condominium the following provisions shall apply:

(a) The Chargor covenants and agrees at all times and from time to time to observe and perform all duties and obligations imposed on the Chargor by the Condominium Act and by the Declaration, the by-laws, and the rules as amended from time to time, of the Condominium Corporation, by virtue of the Chargor's ownership of the Charged Premises. Any breach of the said duties and obligations shall constitute a breach of covenant under the Charge.

(b) Without limiting the generality of the foregoing, the Chargor covenants and agrees that the Chargor will pay promptly when due any contributions to common expenses required of the Chargor as an owner of the Charged Premises and in the event of default in doing so the Chargee, at its option, may pay the same and the amount so paid shall be added to the debt secured by the Charge and shall be a charge on the Charged Premises and shall bear interest at the Charge Rate from the time of such payments and shall be payable forthwith by the Chargor to the Chargee whether or not any payment in default has priority to the Charge or any part of the monies secured thereby.

(c) The Chargor hereby irrevocably authorizes and empowers the Chargee to exercise the right of the Chargor as an owner of the Charged Premises to vote or to consent in all matters relating to the affairs of the Condominium Corporation provided that:

(i) the Chargee may at any time or from time to time give notice in writing to the Chargor and the said Condominium Corporation that the Chargee does not intend to exercise the said right to vote or consent and in that event until the Chargee revokes the said notice the Chargor may exercise the right to vote. Any such notice may be for an indeterminate period of time or for a limited period of time or for a specific meeting or matter;

(ii) the Chargee shall not by virtue of the assignment to the Chargee of the right to vote or consent be under any obligation to vote or consent or to protect the interests of the Chargor; and

(iii) the exercise of the right to vote or consent shall not constitute the Chargee a chargee in possession.

(d) The Chargor covenants and agrees to advise the Condominium Corporation to send all notices to the Chargee and to notify the Chargee of any breaches by the Condominium Corporation that come to the attention of the Chargor in order that the Chargee is kept fully informed.



## 42. RECEIVERSHIP

Notwithstanding anything contained in the Charge, it is declared and agreed that at any time and from time to time when there shall be default under the provisions of the Charge, the Chargee may, at such time and from time to time and with or without entry into possession of the Charged Premises, or any part thereof, by instrument in writing appoint any person, whether an officer or officers or an employee or employees of the Chargee or not, to be a receiver (which term as used herein includes a receiver manager and also includes the plural as well as the singular) of the Charged Premises, or any part thereof, and of the rents and profits thereof, and with or without security, and may from time to time by similar writing remove any receiver and appoint another in such receiver's stead, and that, in making any such appointment or removal, the Chargee shall be deemed to be acting as the agent or attorney for the Chargor, but no such appointment shall be revocable by the Chargor. Upon the appointment of any such receiver from time to time the following provisions shall apply:

(a) Every such receiver shall have unlimited access to the Charged Premises as agent and attorney for the Chargor (which right of access shall not be revocable by the Chargor) and shall have full power and unlimited authority (which power and authority shall not be revocable by the Chargor) to:

- (i) collect the rents and profits from tenancies whether created before or after these presents;
- (ii) rent any portion of the Charged Premises which may be or become vacant on such terms and conditions as the receiver considers advisable and enter into and execute leases, accept surrenders and terminate leases;
- (iii) complete the construction of any building or buildings or other erections or improvements on the Charged Premises left by the Chargor in an unfinished state or award the same to others to complete and purchase, repair and maintain any personal property including, without limitation, appliances and equipment, necessary or desirable to render the premises operable or rentable, and take possession of and use or permit others to use all or any part of the Chargor's materials, supplies, plans, tools, equipment (including appliances) and property of every kind and description; and
- (iv) manage, operate, repair, alter or extend the Charged Premises or any part thereof.

The Chargor undertakes to ratify and confirm whatever any such receiver may do in the Charged Premises.

(b) The Chargee may at its discretion vest the receiver with all or any of the rights and powers of the Chargee.

(c) The Chargee may fix the reasonable remuneration of the receiver who shall be entitled to deduct the same out of the revenue or the sale proceeds of the Charged Premises.

(d) Every such receiver shall be deemed to be the agent or attorney of the Chargor and, in no event, the agent of the Chargee and the Chargee shall not be responsible for the receiver's acts or omissions.

(e) The appointment of any such receiver by the Chargee shall not result in or create any liability or obligation on the part of the Chargee to the receiver or to the Chargor or to any other person and no appointment or removal of a receiver and no actions of a receiver shall constitute the Chargee a chargee in possession of the Charged Premises.

(f) No such receiver shall be liable to the Chargor to account for monies other than monies actually received by the receiver in respect of the Charged Premises, or any part thereof, and out of such monies so received every such receiver shall, in the following order, pay:

- (i) the remuneration of the receiver aforesaid;
- (ii) all costs and expenses of every nature and kind incurred by the receiver in connection with the exercise of the receiver's powers and authority hereby conferred;
- (iii) interest, principal and other money which may, from time to time, be or become charged upon the Charged Premises in priority to the Charge, including taxes;
- (iv) to the Chargee, all interest, principal and other monies due under the Charge to be paid in such order as the Chargee in its discretion shall determine;
- (v) and thereafter, every such receiver shall be accountable to the Chargor for any surplus.

The remuneration and expenses of the receiver shall be paid by the Chargor on demand and shall be a charge on the Charged Premises and shall bear interest from the date of demand at the Charge Rate

(g) Save as to claims for accounting under clause (f) of this paragraph, the Chargor hereby releases and discharges any such receiver from every claim of every nature, whether sounding in damages or not, which may arise or be caused to the Chargor or any person claiming through or under the Chargor by reason or as a result of anything done by such receiver unless such claim be the direct and proximate result of dishonesty or fraud.

(h) The Chargee may, at any time and from time to time, terminate any such receivership by notice in writing to the Chargor and to any such receiver.

(i) The statutory declaration of an officer of the Chargee as to default under the provisions of the Charge and as to the due appointment of the receiver pursuant to the terms hereof shall be sufficient proof thereof for the purposes of any person dealing with a receiver who is ostensibly exercising powers provided for in the Charge and such dealing shall be deemed, as regards such person, to be valid and effectual.

(j) The rights and powers conferred in and by the Charge in respect of the receiver are supplemental to and not in substitution of any other rights and powers which the Chargee may have.

43. COMPLIANCE WITH THE LAW

The Chargor covenants and agrees at all times to promptly observe, perform, execute and comply with all applicable laws, rules, requirements, orders, directions, by-laws, ordinances, work orders and regulations of every governmental authority and agency whether federal, provincial, municipal or otherwise, including, without limiting the generality of the foregoing, those dealing with zoning, use, occupancy, subdivision, parking, historical designations, fire, access, loading facilities, landscaped area, pollution of the environment, toxic materials or other environmental hazards, building construction, public health and safety, and all private covenants and restrictions affecting the Charged Premises or any portion thereof and the Chargor will from time to time, upon request of the Chargee, provide to the Chargee evidence of such observance and compliance, and will at its own expense make any and all improvements thereon or alterations to the Charged Premises structural or otherwise and will take all such other action as may be required at any time by any such present or future law, rule, requirement, order, direction, by-law, ordinance, work order or regulation.

44. CHARGE EXPENSES

The Chargor agrees to pay the reasonable and necessary costs, charges and expenses of and incidental to the Charge, and to any and all other documents required in connection therewith, and of any amendment or renewal thereof, and of anything done in connection with the enforcement of the security granted thereby or the procuring of the payment of any monies payable under the Charge, including, without limiting the generality of the foregoing, all solicitors' fees, on a solicitor and client basis, costs and expenses of examination of title, and the obtaining of the opinion of counsel for the Chargee thereon and all costs and expenses valuing the Charged Premises in connection with the foregoing and of anything done in connection with defending the validity or priority of the Charge as against third parties. The Chargor further agrees that such amounts shall be paid forthwith upon demand and until paid shall bear interest at the Charge Rate and shall be a charge on the Charged Premises secured by the Charge prior to all claims thereon subsequent to the Charge.

45. INTERPRETATION

And it is hereby agreed and declared that the expression "the Chargor" used in these standard charge terms and the Charge shall include the heirs, executors, personal representatives, administrators, successors and assigns of each and every Chargor and the expression "the Chargee" shall include the successors and assigns of the Chargee and (if the Charge affects a Condominium) the expression "Condominium Corporation" shall mean the Condominium Corporation referred to in the description and the expression "Declaration" shall mean the declaration registered in connection with the Condominium Corporation, and the words in the singular include the plural, and words in the plural include the singular, and words importing the masculine gender include the feminine and neuter genders where the context so requires, and that all covenants, liabilities, and obligations entered into or imposed under the Charge upon each Chargor shall be equally binding upon his, her, its or their respective heirs, personal representatives, executors, administrators, successors, and assigns and that all such covenants, liabilities and obligations shall be joint and several, and that all rights, advantages, privileges, immunities, powers and things hereby secured to the Chargee shall be equally secured to and exercisable by its successors and assigns; and if the Chargor is comprised of more than one person, all covenants by the Chargor herein contained or implied are and are to be construed as both joint and several.

46. PARAGRAPH HEADINGS

The paragraph headings in these standard charge terms are inserted for convenience of reference only and are deemed not to form part of the Charge and are not to be considered in the construction or interpretation of the Charge or any part thereof.

47. DATE OF CHARGE

The Charge, unless otherwise specifically provided, shall be deemed to be dated as of the date of delivery for registration of the Charge.

48. EFFECT OF DELIVERY

The delivery of the Charge for registration by direct electronic transfer shall have the same effect for all purposes as if such Charge were in a written form, signed by the parties thereto and delivered to the Chargee. Each of the Chargor and, if applicable, the spouse of the Chargor, and any other party to the Charge, agrees not to raise in any proceedings by the Chargee to enforce the Charge any want or lack of authority on the part of the person delivering the Charge for registration to do so.

RECEIPT

The Chargor(s) hereby acknowledges receipt of a true copy of the Charge and the foregoing Standard Charge Terms before signing the Charge.


DATED the \_\_\_\_\_ day of \_\_\_\_\_

[Insert Name of Chargor(s)]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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This is Exhibit "F" referred to  
in the Affidavit of Michael Foster  
Sworn this 30<sup>th</sup>  
day of June, 2023.

  
Rachel Moses (Jul 4, 2023 08:10 EDT)

.....  
A Commissioner for Taking Affidavits  
Rachel Moses / LSO# 42081V

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Guarantee and Postponement of Claim

SRF: 334760261
Borrower: 2668144 ONTARIO INC.

9300 BATHURST ST
2ND FLR
MAPLE
ONTARIO
L6A 4N5
CA

TO: ROYAL BANK OF CANADA

FOR VALUABLE CONSIDERATION, receipt whereof is hereby acknowledged, the undersigned and each of them (more than one) hereby jointly and severally guarantee(s) payment on demand to Royal Bank of Canada (hereinafter called the "Bank") of all debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by 2668144 ONTARIO INC. (hereinafter called the "Customer") to the Bank or remaining unpaid by the Customer to the Bank, heretofore or hereafter incurred or arising and whether incurred by or arising from agreement or dealings between the Bank and the Customer or by or from any agreement or dealings with any third party by which the Bank may be or become in any manner whatsoever a creditor of the Customer or however otherwise incurred or arising anywhere within or outside the country where this guarantee is executed and whether the Customer be bound alone or with another or others and whether as principal or surety (such debts and liabilities being hereinafter called the "Liabilities"); the liability of the undersigned hereunder being limited to the sum of \$1,445,000.00 together with interest thereon from the date of demand for payment at a rate equal to the Bank's Prime Interest Rate plus 5.00 percent per annum as well after as before default and judgment.

AND THE UNDERSIGNED AND EACH OF THEM (IF MORE THAN ONE) HEREBY JOINTLY AND SEVERALLY AGREE(S) WITH THE BANK AS FOLLOWS:

(1) The Bank may grant time, renewals, extensions, indulgences, releases and discharges to, take securities (which word as used herein includes securities taken by the Bank from the Customer and others, monies which the Customer has on deposit with the Bank, other assets of the Customer held by the Bank in safekeeping or otherwise, and other guarantees) from and give the same and any or all existing securities up to, abstain from taking securities from, or perfecting securities of, cease or refrain from giving credit or making loans or advances to, or change any term or condition applicable to the Liabilities including without limitation, the rate of interest or maturity date, if any, or introduce new terms and conditions with regard to the Liabilities, or accept compositions from and otherwise deal with, the Customer and others and with all securities as the Bank may see fit, and may apply all moneys at any time received from the Customer or others or from securities upon such part of the Liabilities as the Bank deems best and change any such application in whole or in part from time to time as the Bank may see fit, the whole without in any way limiting or lessening the liability of the undersigned under this guarantee, and no loss of or in respect of any securities received by the Bank from the Customer or others, whether occasioned by the fault of the Bank or otherwise, shall in any way limit or lessen the liability of the undersigned under this guarantee.

(2) This guarantee shall be a continuing guarantee and shall cover all the Liabilities, and it shall apply to and secure an ultimate balance due or remaining unpaid to the Bank.

(3) The Bank shall not be bound to exhaust its recourse against the Customer or others or any securities it may at any time hold before being entitled to payment from the undersigned of the Liabilities. The undersigned renounce(s) to all benefits of discussion and division.

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(4) The undersigned or any of them may, by notice in writing delivered to the Manager of the branch or agency of the Bank receiving this instrument, with effect from and after the date that is 30 days following the date of receipt by the Bank of such notice, determine their or his/her liability under this guarantee in respect of Liabilities thereafter incurred or arising but not in respect of any Liabilities theretofore incurred or arising even though not then matured, provided, however, the notwithstanding receipt of any such notice the Bank may fulfil any requirements of the Customer based on agreement express or implied made prior to the receipt of such notice and any resulting Liabilities shall be covered by this guarantee and provided further that in the event of the determination of this guarantee as to one or more of the undersigned it shall remain a continuing guarantee as to the other or others of the undersigned.

(5) All indebtedness and liability, present and future, of the customer to the undersigned or any of them are hereby assigned to the Bank and postponed to the Liabilities, and all moneys received by the undersigned or any of them in respect thereof shall be received in trust for the Bank and forthwith upon receipt shall be paid over to the Bank, the whole without in any way limiting or lessening the liability of the undersigned under the foregoing guarantee; and this assignment and postponement is independent of the said guarantee and shall remain in full effect notwithstanding that the liability of the undersigned or any of them under the said guarantee may be extinct. The term "Liabilities", as previously defined, for purposes of the postponement feature provided by this agreement, and this section in particular, includes any funds advanced or held at the disposal of the Customer under any line(s) of credit.

(6) This guarantee and agreement shall not be affected by the death or loss or diminution of capacity of the undersigned or any of them or by any change in the name of the Customer or in the membership of the Customer's firm through the death or retirement of one or more partners or the introduction of one or more other partners or otherwise, or by the acquisition of the Customer's business by a corporation, or by any change whatsoever in the objects, capital structure or constitution of the Customer, or by the Customer's business being amalgamated with a corporation, but shall notwithstanding the happening of any such event continue to apply to all the Liabilities whether theretofore or thereafter incurred or arising and in this instrument the word "Customer" shall include every such firm and corporation.

(7) This guarantee shall not be considered as wholly or partially satisfied by the payment or liquidation at any time or time of any sum or sums of money for the time being due or remaining unpaid to the Bank, and all dividends, compositions, proceeds of security valued and payments received by the Bank from the Customer or from others or from estates shall be regarded for all purposes as payments in gross without any right on the part of the undersigned to claim a reduction of the liability under this guarantee the benefit of any such dividends, compositions, proceeds or payments or any securities held by the Bank or proceeds thereof; and the undersigned shall have no right to be subrogated in any right of the Bank until the Bank shall have received payment in full of the Liabilities.

(8) All monies, advances, renewals, credits and credit facilities in fact borrowed or obtained from the Bank shall be deemed to form part of the Liabilities, notwithstanding any lack or limitation of status or of power, incapacity or disability of the Customer or of the directors, partners or agents of the Customer, or that the Customer may not be a legal or suitable entity, or any irregularity, defect or informality in the borrowing or obtaining of such monies, advances, renewals, credits or credit facilities, or any other reason, similar or not, the whole whether known to the Bank or not. Any sum which may not be recoverable from the undersigned on the footing of a guarantee, whether for the reasons set out in the previous sentence, or for any other reason, similar or not, shall be recoverable from the undersigned and each of them as sole principal debtor in respect of that sum, and shall be paid to the Bank on demand with interest and accessories.

(9) This guarantee is in addition to and not in substitution for any other guarantee, by whomsoever given, at any time held by the Bank, and any present or future obligation to the Bank incurred or arising otherwise than under a guarantee, of the undersigned or any of them or of any other obligant, whether bound with or apart from the Customer; excepting any guarantee surrendered for cancellation on delivery of this instrument or confirmed in writing by the Bank to be cancelled.

(10) The undersigned and each of them shall be bound by any account settled between the Bank and the Customer, and if no such account has been so settled immediately before demand for payment under this guarantee any account stated by the Bank shall be accepted by the undersigned and each of them as conclusive evidence of the amount which at the date of the account so stated is due by the Customer to the Bank or remains unpaid by the Customer to the Bank.

(11) This guarantee and agreement shall be operative and binding upon every signatory thereof notwithstanding the non-execution thereof by any other proposed signatory or signatories, and possession of this instrument by the Bank shall

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be conclusive evidence against the undersigned and each of them that this instrument was not delivered in escrow pursuant to any agreement that it should not be effective until any conditions precedent or subsequent had been complied with, unless at the time of receipt of this instrument by the Bank each signatory thereof obtains from the Manager of the branch or agency of the Bank receiving this instrument a letter setting out the terms and conditions under which this instrument was delivered and the conditions, if any, to be observed before it becomes effective.

(12) No suit based on this guarantee shall be instituted until demand for payment has been made, and demand for payment shall be deemed to have been effectually made upon any guarantor if and when an envelope containing such demand, addressed to such guarantor at the address of such guarantor last known to the Bank, is posted, postage prepaid in the post office, and in the event of the death of any guarantor demand for payment addressed to any of such guarantor's heirs, executors, administrators or legal representatives at the address of the addressee last known to the Bank and posted as aforesaid shall be deemed to have been effectually made upon all of them. Moreover, when demand for payment has been made, the undersigned shall also be liable to the Bank for all legal costs (on a solicitor and own client basis) incurred by or on behalf of the Bank resulting from any action instituted on the basis of this guarantee. All payments hereunder shall be made to the Bank at a branch or agency of the Bank.

(13) This instrument covers all agreements between the parties hereto relative to this guarantee and assignment and postponement, and none of the parties shall be bound by any representation or promise made by any person relative thereto which is not embodied herein.

(14) This guarantee and agreement shall extend to and enure to the benefit of the Bank and its successors and assigns, a every reference herein to the undersigned or to each of them or to any of them, is a reference to and shall be construed as including the undersigned and the heirs, executors, administrators, legal representatives, successors and assigns of the undersigned or of each of them or of any of them, as the case may be, to and upon all of whom this guarantee and agreement shall extend and be binding.

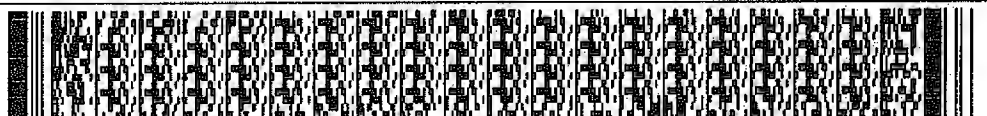
(15) Prime Interest Rate is the annual rate of interest announced from time to time by Royal Bank of Canada as a reference rate then in effect for determining interest rates on Canadian dollar commercial loans in Canada.

(16) This Guarantee and Postponement of Claim shall be governed by and construed in accordance with the laws of the province of ONTARIO ("Jurisdiction"). The undersigned irrevocably submits to the courts of the Jurisdiction in any action or proceeding arising out of or relating to this Guarantee and Postponement of Claim, and irrevocably agrees that all such actions and proceedings may be heard and determined in such courts, and irrevocably waives, to the fullest extent possible the defense of an inconvenient forum. The undersigned agrees that a judgment or order in any such action or proceeding may be enforced in other jurisdictions in any manner provided by law. Provided, however, that the Bank may serve legal process in any manner permitted by law or may bring an action or proceeding against the undersigned or the property or assets of the undersigned in the courts of any other jurisdiction.

(17) The Undersigned hereby acknowledges receipt of a copy of this agreement.

(18) The Undersigned hereby waives Undersigned's right to receive a copy of any Financing Statement or Financing Charge Statement registered by the Bank.

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EXECUTED this

February 11, 2019  
(MONTH) (DAY) (YEAR)

IN THE PRESENCE OF

*[Handwritten Signature]*

*[Handwritten Signature]*

Witness Signature:

SHAKIVE RAHAMAN

PREJNA ERINHIKKAL

Name:

*[Handwritten Signature]*

Witness Signature:

ASMINUR RAHAMAN

PREJNA ERINHIKKAL

Name:

Insert the full name and address of Guarantor (Undersigned above).

Full name and address

SHAKIVE RAHAMAN  
104 VETERANS DRIVE  
BRAMPTON  
ONTARIO  
L7A 3Z7  
CA

ASMINUR RAHAMAN  
77 EDUCATION ROAD  
BRAMPTON  
ONTARIO  
L6P 3P3  
CA


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This is Exhibit "G" referred to  
in the Affidavit of Michael Foster  
Sworn this 30th  
day of June, 2023.

  
Rachel Moses (Jul 4, 2023 08:10 EDT)

.....  
A Commissioner for Taking Affidavits

Rachel Moses / LSO# 42081V

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RUN NUMBER : 098  
RUN DATE : 2022/04/08  
ID : 20220408125153.71

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 1  
( 3167)

108

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE CENTRAL OFFICE  
OF THE PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM IN RESPECT OF THE FOLLOWING:

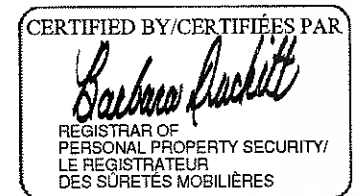
TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : 2668144 ONTARIO INC.  
FILE CURRENCY : 07APR 2022

ENQUIRY NUMBER 20220408125153.71 CONTAINS 4 PAGE(S), 2 FAMILY(IES).

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS WHICH SET OUT A BUSINESS DEBTOR NAME  
WHICH IS SIMILAR TO THE NAME IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE OTHER  
SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

CYBERBAHN - PAOLA SCARCELLO  
199 BAY STREET  
TORONTO ON M5L 1E9

CONTINUED... 2



(crf)5 06/2019)

Ontario 

RUN NUMBER : 098  
RUN DATE : 2022/04/08  
ID : 20220408125153.71

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 2  
( 3168)

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TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : 2668144 ONTARIO INC.  
FILE CURRENCY : 07APR 2022

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

FILE NUMBER  
775996704

CAUTION FILING	PAGE NO.	TOTAL OF PAGES	MOTOR VEHICLE SCHEDULE	REGISTRATION NUMBER	REGISTERED UNDER	REGISTRATION PERIOD
	001	1		20210901 1217 1532 4658	P PPSA	07

DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

DEBTOR NAME BUSINESS NAME 2668144 ONTARIO INC.

ADDRESS 989 WARD ST BRIDGENORTH ONTARIO CORPORATION NO. ON K0L1H0

DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
22OCT1976 SHAKTIV RAHAMAN

DEBTOR NAME BUSINESS NAME  
ADDRESS 104 ROTHWELL GD PETERBOROUGH ONTARIO CORPORATION NO. ON K9H0G8

SECURED PARTY / THE BANK OF NOVA SCOTIA

LIEN CLAIMANT ADDRESS 10 WRIGHT BOULEVARD STRATFORD ON N5A7X9

COLLATERAL CLASSIFICATION

CONSUMER GOODS	INVENTORY	EQUIPMENT	ACCOUNTS	OTHER	MOTOR VEHICLE INCLUDED	AMOUNT	DATE OF MATURITY OR	NO. FIXED MATURITY DATE
		X			X	64155.55		

MOTOR VEHICLE YEAR MAKE MODEL V.I.N.  
2021 RAM 1500 CLASSIC 1C6RR7LT0MS555740

GENERAL COLLATERAL DESCRIPTION OUR SECURITY INTEREST IS LIMITED TO THE MOTOR VEHICLES LISTED ABOVE AND THE PROCEEDS OF THOSE VEHICLES

REGISTERING AGENT D + H LIMITED PARTNERSHIP  
ADDRESS 2 ROBERT SPECK PARKWAY, 15TH FLOOR MISSISSAUGA ON L4Z 1H8

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

CONTINUED... 3

CERTIFIED BY/CERTIFIÉES PAR  
*Barbara Duckitt*  
REGISTRAR OF  
PERSONAL PROPERTY SECURITY/  
LE REGISTRATEUR  
DES SÛRETÉS MOBILIÈRES

(crj1fu 06/2019)

RUN NUMBER : 098  
RUN DATE : 2022/04/08  
ID : 20220408125153.71

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 3  
( 3169)

110

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : 2668144 ONTARIO INC.  
FILE CURRENCY : 07APR 2022

FORM 10 FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER  
747804177

01 CATION PAGE TOTAL MOTOR VEHICLE REGISTRATION REGISTERED REGISTRATION  
FILING NO. OF PAGES SCHEDULE NUMBER UNDER PERIOD  
01 001 20190123 1443 1530 3690 P PPSA 5

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
03 NAME BUSINESS NAME 2668144 ONTARIO INC.  
04 ADDRESS 104 VETERANS DR BRAMPTON ONTARIO CORPORATION NO.  
ON L7A 3Z7

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
06 NAME BUSINESS NAME  
07 ADDRESS ONTARIO CORPORATION NO.

08 SECURED PARTY / ROYAL BANK OF CANADA  
09 LIEN CLAIMANT ADDRESS 36 YORK MILLS ROAD, 4TH FLOOR TORONTO ON M2P 0A4

10 COLLATERAL CLASSIFICATION CONSUMER MOTOR VEHICLE AMOUNT DATE OF NO. FIXED  
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED MATURITY OR MATURITY DATE  
X X X X X

11 MOTOR YEAR MAKE MODEL VIN  
12 VEHICLE

13 GENERAL  
14 COLLATERAL  
15 DESCRIPTION

16 REGISTERING CANADIAN SECURITIES REGISTRATION SYSTEMS  
17 AGENT ADDRESS 4126 NORLAND AVENUE BURNABY BC V5G 3S8

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY \*\*\*

CONTINUED... 4

CERTIFIED BY/CERTIFIÉES PAR  
*Barbara Duckitt*  
REGISTRAR OF  
PERSONAL PROPERTY SECURITY/  
LE REGISTRATEUR  
DES SÛRETÉS MOBILIÈRES

(crj1fu 06/2019)

RUN NUMBER : 098  
RUN DATE : 2022/04/08  
ID : 20220408125153.71

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 4  
( 3170)

111

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : 2668144 ONTARIO INC.  
FILE CURRENCY : 07APR 2022

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

FILE NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER
775996704	20210901 1217 1532 4658			
747804177	20190123 1443 1530 3690			

2 REGISTRATION(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.


CERTIFIED BY/CERTIFIÉES PAR  
*Barbara Luckitt*  
REGISTRAR OF  
PERSONAL PROPERTY SECURITY/  
LE REGISTRATEUR  
DES SÛRETÉS MOBILIÈRES

(crij5 06/2019)

Ontario 

---

This is Exhibit "H" referred to  
in the Affidavit of Michael Foster  
Sworn this 30<sup>th</sup>  
day of June, 2023.

  
Rachel Moses (Jul 4, 2023 08:10 EDT)

.....  
A Commissioner for Taking Affidavits

Rachel Moses / LSO# 42081V

---

LAND  
REGISTRY  
OFFICE #45

28425-0029 (LT)

PREPARED FOR Christine  
ON 2023/06/23 AT 13:26:24

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

PROPERTY DESCRIPTION: PT LT 12 CON 7 SMITH AS IN R503692 ; S/T R241248 SMITH-ENNISMORE

989 Ward Street, Bridgenorth, Ontario

PROPERTY REMARKS:

ESTATE/QUALIFIER:  
FEE SIMPLE  
LT CONVERSION QUALIFIED

RECENTLY:  
FIRST CONVERSION FROM BOOK

PIN CREATION DATE:  
1999/08/23

OWNERS' NAMES  
2668144 ONTARIO INC.

CAPACITY SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
<p><b>**EFFECTIVE 2000/07/29 THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1999/08/23 ON THIS PIN**</b></p> <p><b>**WAS REPLACED WITH THE "PIN CREATION DATE" OF 1999/08/23**</b></p> <p><b>** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 1999/08/20 **</b></p> <p><b>**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:</b></p> <p><b>** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES * AND ESCHEATS OR FORFEITURE TO THE CROWN.</b></p> <p><b>** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY CONVENTION.</b></p> <p><b>** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.</b></p> <p><b>**DATE OF CONVERSION TO LAND TITLES: 1999/08/23 **</b></p>						
R164048	1966/09/21	BYLAW				C
45R607	1972/07/07	PLAN REFERENCE				C
R241248	1972/10/27	TRANSFER EASEMENT			THE BELL TELEPHONE COMPANY OF CANADA	C
		REMARKS: SKETCH ATTACHED.				
R503692	1989/02/28	TRANSFER		*** COMPLETELY DELETED ***	SANGUINETTI, CAROL ANN	
R548216	1991/06/14	CHARGE		*** COMPLETELY DELETED ***	ROYAL BANK OF CANADA	
PE17667	2005/04/15	TRANSFER		*** COMPLETELY DELETED *** SANGUINETTI, CAROL ANN	1254755 ONTARIO LIMITED	

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

LAND  
REGISTRY  
OFFICE #45

28425-0029 (LT)

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ON 2023/06/23 AT 13:26:24

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
PE28828	2005/11/25	CHARGE		*** COMPLETELY DELETED *** 1254755 ONTARIO LIMITED	ROYAL BANK OF CANADA	
PE28829	2005/11/25	DISCH OF CHARGE		*** COMPLETELY DELETED *** ROYAL BANK OF CANADA		
	REMARKS: RE: R548216					
PE48443	2007/02/16	RESTRICTIONS ORDER		*** COMPLETELY DELETED *** ONTARIO SUPERIOR COURT OF JUSTICE	NOCO ENERGY CANADA INC.	
	REMARKS: THE DEFENDANTS BE AND THE SAME ARE HEREBY RESTRAINED FROM TRANSFERRING, MORTGAGING, DISCHARGING OR OTHERWISE DEALING WITH THEIR INTEREST ; DOCUMENT TYPE HAS BEEN CHANGED FROM APPLICATION TO REGISTER COURT ORDER TO REGISTER RESTRICTIONS BASED ON COURT ORDER BY AM BERTRAND ON JAN.27, 2009					
PE48443ERR	2007/02/16	APL COURT ORDER		*** COMPLETELY DELETED *** ONTARIO SUPERIOR COURT OF JUSTICE	NOCO ENERGY CANADA INC.	
	REMARKS: "...THE DEFENDANTS BE AND THE SAME ARE HEREBY RESTRAINED FROM TRANSFERRING, MORTGAGING, DISCHARGING OR OTHERWISE DEALING WITH THEIR INTEREST.." NO DEALINGS INDICATOR ACTIVATED JUNE 26, 2007 BY KIM FINLEY PE48443 -ERROR ENTRY, CANCELLED BYANNE MARIE BERTRAND ON 2009/01/27					
PE77274	2008/04/29	APL COURT ORDER		*** DELETED AGAINST THIS PROPERTY *** ONTARIO SUPERIOR COURT OF JUSTICE	NOCO ENERGY CANADA INC.	
PE99015	2009/03/31	APL (GENERAL)		*** COMPLETELY DELETED *** 1254755 ONTARIO LIMITED		
	REMARKS: DELETE PE48443					
PE99031	2009/03/31	TRANSFER		*** COMPLETELY DELETED *** 1254755 ONTARIO LIMITED	GT INVESTMENTS GROUP INC.	
	REMARKS: PLANNING ACT STATEMENTS					
PE99032	2009/03/31	CHARGE		*** COMPLETELY DELETED *** GT INVESTMENTS GROUP INC.	1254755 ONTARIO LIMITED	
PE110568	2009/09/23	DISCH OF CHARGE		*** COMPLETELY DELETED *** ROYAL BANK OF CANADA		
	REMARKS: PE28828.					
PE118030	2010/01/20	LR'S ORDER		LAND REGISTRAR NO. 45		C
	REMARKS: AMEND PROPERTY DESCRIPTION					
PE118124	2010/01/21	APL CH NAME OWNER		*** COMPLETELY DELETED *** GT INVESTMENTS GROUP INC.	1791979 ONTARIO INC.	
PE118131	2010/01/21	CHARGE		*** COMPLETELY DELETED *** 1791979 ONTARIO INC.	HANDELMAN, MARTIN	

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LAND  
REGISTRY  
OFFICE #45

28425-0029 (LT)

PREPARED FOR Christine  
ON 2023/06/23 AT 13:26:24

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
PE118132	2010/01/21	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** 1791979 ONTARIO INC.	HANDELMAN, STEPHEN B & M HANDELMAN INVESTMENTS LIMITED ORENBACH INVESTMENTS LIMITED YORKDALE CONTRACT INTERIORS LIMITED M. W. TRUST  HANDELMAN, MARTIN HANDELMAN, STEPHEN B & M HANDELMAN INVESTMENTS LIMITED ORENBACH INVESTMENTS LIMITED YORKDALE CONTRACT INTERIORS LIMITED M.W. TRUST	
		REMARKS: PE118131				
PE118146	2010/01/21	DISCH OF CHARGE		*** COMPLETELY DELETED *** 1254755 ONTARIO LIMITED		
		REMARKS: PE99032.				
PE118147	2010/01/21	CHARGE		*** COMPLETELY DELETED *** 1791979 ONTARIO INC.	TOOR, GURPREET	
PE150133	2011/07/11	DISCH OF CHARGE		*** COMPLETELY DELETED *** TOOR, GURPREET		
		REMARKS: PE118147.				
PE150596	2011/07/18	CHARGE		*** COMPLETELY DELETED *** 1791979 ONTARIO INC.	YERUSHA INVESTMENTS INC. GRAFSTEIN, DIANE BAMBURGH HOLDINGS LTD. TAERK, SHELDON TEPERMAN, MARVIN WEINGARDEN, ROBERT M. HIMEL HOLDINGS INC. NATME HOLDINGS LTD. CHARENDOFF, EVELYN RIDGWAY OCCUPATIONAL CONSULTANTS INC.	
PE150597	2011/07/18	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** 1791979 ONTARIO INC.	YERUSHA INVESTMENTS INC. GRAFSTEIN, DIANE BAMBURGH HOLDINGS LTD. TAERK, SHELDON	

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28425-0029 (LT)

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ON 2023/06/23 AT 13:26:24

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
					TEPERMAN, MARVIN WEINGARDEN, ROBERT M. HIMEL HOLDINGS INC. NATME HOLDINGS LTD. CHARENDOFF, EVELYN RIDGWAY OCCUPATIONAL CONSULTANTS INC.	
		REMARKS: PE150596				
PE159303	2011/11/30	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** WOODROW CONTRACTING INC.		
		REMARKS: PE159303.				
PE159741	2011/12/06	DIS CONSTRUCT LIEN		*** COMPLETELY DELETED *** WOODROW CONTRACTING INC.		
		REMARKS: PE159747				
PE159747	2011/12/06	CHARGE		*** COMPLETELY DELETED *** 1791979 ONTARIO INC.	COMFORT CAPITAL INC.	
		REMARKS: PE159747				
PE159748	2011/12/06	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** 1791979 ONTARIO INC.	COMFORT CAPITAL INC.	
		REMARKS: PE159764				
PE159764	2011/12/07	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** WOODROW CONTRACTING INC.		
		REMARKS: CERTIFICATE OF ACTION RE: PE159764				
PE160702	2011/12/21	CERTIFICATE		*** COMPLETELY DELETED *** WOODROW CONTRACTING INC.		
		REMARKS: PE159764.				
PE162347	2012/01/27	DIS CONSTRUCT LIEN		*** COMPLETELY DELETED *** WOODROW CONTRACTING INC.		
		REMARKS: PE159764.				
PE164374	2012/03/09	CHARGE		*** COMPLETELY DELETED *** 1791979 ONTARIO INC.	SMV FINANCIAL SERVICES INC.	
PE180659	2012/12/19	APL VESTING ORDER	\$950,000	ONTARIO SUPERIOR COURT OF JUSTICE - COMMERCIAL LIST	S.M. ENTERPRISES INC.	C
PE180661	2012/12/19	CHARGE		*** COMPLETELY DELETED *** S.M. ENTERPRISES INC.	B & M HANDELMAN INVESTMENTS LIMITED HANDELMAN, MARTIN HANDELMAN, STEPHEN M. W. TRUST	

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28425-0029 (LT)

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ON 2023/06/23 AT 13:26:24

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
PE180662	2012/12/19	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** S.M. ENTERPRISES INC.	ORENBACH INVESTMENTS YORKDALE CONTRACT INTERIORS LIMITED BAMBURGH HOLDINGS LTD. CHARENDOFF, EVELYN GRAFSTEIN, DIANE M. HIMEL HOLDINGS INC. NATME HOLDINGS LTD. RIDGWAY OCCUPATIONAL CONSULTANTS INC. TAERK, SHELDON TEPERMAN, MARVIN WEINGARDEN, ROBERT YERUSHA INVESTMENTS INC.	
		REMARKS: PE180661			B & M HANDELMAN INVESTMENTS LIMITED HANDELMAN, MARTIN HANDELMAN, STEPHEN M. W. TRUST ORENBACH INVESTMENTS YORKDALE CONTRACT INTERIORS LIMITED BAMBURGH HOLDINGS LTD. CHARENDOFF, EVELYN GRAFSTEIN, DIANE M. HIMEL HOLDINGS INC. NATME HOLDINGS LTD. RIDGWAY OCCUPATIONAL CONSULTANTS INC. TAERK, SHELDON TEPERMAN, MARVIN WEINGARDEN, ROBERT YERUSHA INVESTMENTS INC.	
PE180666	2012/12/19	CHARGE		*** COMPLETELY DELETED *** S.M. ENTERPRISES INC.	1449400 ONTARIO INC.	
PE180667	2012/12/19	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** S.M. ENTERPRISES INC.	1449400 ONTARIO INC.	
		REMARKS: PE180666				
PE205077	2014/05/06	DISCH OF CHARGE		*** COMPLETELY DELETED *** 1449400 ONTARIO INC.		
		REMARKS: PE180666.				

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28425-0029 (LT)

PREPARED FOR Christine  
ON 2023/06/23 AT 13:26:24

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
PE205266	2014/05/09	CHARGE		*** COMPLETELY DELETED *** S.M. ENTERPRISES INC.	BANK OF MONTREAL	
PE205267	2014/05/09	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** S.M. ENTERPRISES INC.	BANK OF MONTREAL	
		REMARKS: PE205266.				
PE205269	2014/05/09	DISCH OF CHARGE		*** COMPLETELY DELETED *** B & M HANDELMAN INVESTMENTS LIMITED HANDELMAN, MARTIN HANDELMAN, STEPHEN M. W. TRUST ORENBACH INVESTMENTS YORKDALE CONTRACT INTERIORS LIMITED BAMBURGH HOLDINGS LTD. CHARENDOFF, EVELYN GRAFSTEIN, DIANE M. HIMEL HOLDINGS INC. NATME HOLDINGS LTD. RIDGEWAY OCCUPATIONAL CONSULTANTS INC. TAERK, SHELDON TEPERMAN, MARVIN WEINGARDEN, ROBERT YERUSHA INVESTMENTS INC.		
		REMARKS: PE180661.				
PE218767	2015/01/13	TRANSFER		*** COMPLETELY DELETED *** S.M. ENTERPRISES INC.	2436789 ONTARIO INC.	
		REMARKS: PLANNING ACT STATEMENTS.				
PE218769	2015/01/13	CHARGE		*** COMPLETELY DELETED *** 2436789 ONTARIO INC.	BANK OF MONTREAL	
PE219261	2015/01/21	DISCH OF CHARGE		*** COMPLETELY DELETED *** BANK OF MONTREAL		
		REMARKS: PE205266.				
PE306607	2019/03/05	TRANSFER	\$2,100,000	2436789 ONTARIO INC.	2668144 ONTARIO INC.	C
PE306608	2019/03/05	CHARGE	\$1,445,000	2668144 ONTARIO INC.	ROYAL BANK OF CANADA	C
PE306609	2019/03/05	CHARGE		*** COMPLETELY DELETED *** 2668144 ONTARIO INC.	2436789 ONTARIO INC.	

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
PE306930	2019/03/13	CHARGE		*** COMPLETELY DELETED *** 2668144 ONTARIO INC.	JAND, INDERJIT	
PE306937	2019/03/13	DISCH OF CHARGE		*** COMPLETELY DELETED *** BANK OF MONTREAL		
		REMARKS: PE218769.				
PE355626	2021/06/07	DISCH OF CHARGE		*** COMPLETELY DELETED *** JAND, INDERJIT		
		REMARKS: PE306930.				
PE395360	2023/03/02	DISCH OF CHARGE		*** COMPLETELY DELETED *** 2436789 ONTARIO INC.		
		REMARKS: PE306609.				

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Roll Number: 1516-020-202-10600-000  
 Certificate #: 1233  
 Your File #: 4127965

**Requested By**

MINDEN GROSS LLP  
 2200-145 KING ST WEST  
 TORONTO ON M5H 4G2

**Assessed Owners**

2668144 ONTARIO INC

989 WARD ST  
 BRIDGENORTH ON K0L 1H0

**Municipal Address**

989 WARD ST

**Property Description**

CON 7 PT LOT 12

**Statement of Current Taxes for 2023**

Taxes Levied	Special Charges	Penalty	Current Owing
\$11,149.80	\$0.00	\$204.98	\$11,149.80

**Statement of Tax Arrears**

Year	Taxes	Interest	Outstanding
2022	\$10,931.20		\$10,931.20
2021	\$10,811.11		\$10,811.11
2020 & prior	\$2,386.80		\$2,386.80

Total Taxes Owing at Date of Certification: **\$35,278.91**

**Current Year Installment Breakdown**

	Interim		Final
2023-03-06	\$2,733.59	2023-08-01	\$2,842.21
2023-05-01	\$2,732.00	2023-10-02	\$2,842.00

**Previous Year Taxes Levied**

2022 \$10,931.20

Penalty and/or interest are fixed at a rate of 1.25%. Penalty and/or interest will accrue on unpaid taxes commencing the first day of default and the first day of each calendar month thereafter.

**Special Charges Breakdown**


Code	Description	Amount	Expires
------	-------------	--------	---------

**Comments:** To cancel PAP form is available at:  
[www.selwintownship.ca/PAPform](http://www.selwintownship.ca/PAPform)

I hereby certify that, subject to the following qualifications, this statement shows:

1. All arrears of taxes returned to this office and due against the property described herein.
2. The current amount of taxes levied to date on the real property described herein and the amount of current year's and prior year's taxes owing as at the date of certification.
3. That no part of the lands described herein have been sold for taxes and no certificate of tax arrears has been registered against said lands unless specifically identified.

Certified as of: 2023-06-27


  
 Treasurer/Deputy Treasurer

**Qualifications**

1. The total taxes shown may include additions to the Tax Collector's roll as authorized by provincial legislation.
2. The information on this certificate is based on cheques tendered but not necessarily honoured by the institution upon which they were drawn, and may not reflect payment made in the last 2 days.

---

This is Exhibit "I" referred to  
in the Affidavit of Michael Foster  
Sworn this 30<sup>th</sup>  
day of June, 2023.

  
Rachel Moses (Jul 4, 2023 08:10 EDT)

.....  
A Commissioner for Taking Affidavits

Rachel Moses / LSO# 42081V

---



Prejna Erinhikkal  
Commercial Account Manager  
25 Milverton Drive, Mississauga  
L5R 3G2, Ontario  
Tel: 416-451-1539

April 4, 2022

2668144 Ontario Inc.  
989 Ward St, Bridgenorth ON K0L 1H0  
Email address: bridgenorth989@gmail.com

Attention: Mr. Shakive Rahaman, President

***Re: Royal Bank of Canada ("the Bank") and 2668144 Ontario Inc.. ("the Company")***

---

The purpose of this letter is to advise you that the Company's accounts will be transferred over to RBC's Special Loans & Advisory Services group to oversee and they will be contacting you to discuss the Company's financial situation.

It appears that the Company has experienced financial difficulties and the Bank has concerns based on the following:

- cash flow difficulties;
- late financial reporting;
- the Company's inability to meet the covenants (Debt Servicing and postponement of shareholders' loans) and conditions which form part of the Company's agreement with the Bank;
- property tax arrears;
- proposed litigation on Vendor Take Back financing

Based on our concerns noted above the Company's risk profile has deteriorated and, as a result, the Bank will require specialized assistance to manage your account going forward. Accordingly, management of your account is to be re-assigned to the below referenced Manager in our Special Loans & Advisory Services group which is located in Toronto.

Michael Foster  
Senior Manager, Special Loans & Advisory Services  
20 King St. W., 2<sup>nd</sup> Floor  
Toronto, Ontario, M5H 1C4  
Email : michael.foster@rbc.com

You will be contacted by Mr. Foster from Special Loans to schedule a meeting; at which time he will fully explain his role in managing your credit going forward.

As Mr. Foster will have responsibility for your account, all future enquiries should be directed to his attention after our meeting date. Until that time I will remain your primary contact at the Bank.

Due to the higher risk and additional administration now attached to your account the Bank will be reviewing all rates and fees being charged which will be increasing.

Any costs that might be incurred by the Bank on account of its professional advisors will be for the Company's account and will be charged to the Company's Current Account from time to time. We will provide you with copies of these invoices if these expenses are incurred.

We remind you that, notwithstanding excesses that may have been permitted in the past, your accounts and loans are to continue to operate and repay as agreed within approved limits. Any cheques and/or debits presented on your accounts will be returned NSF, without notice to you, if such items cause an excess over and above approved limits.

Yours truly,

A handwritten signature in black ink, appearing to read 'Prejna Erinhikkal', with a long horizontal stroke extending to the right.


Prejna Erinhikkal  
Commercial Account Manager

cc. Michael Foster



---

This is Exhibit "J" referred to  
in the Affidavit of Michael Foster  
Sworn this 30<sup>th</sup>  
day of June, 2023.

  
Rachel Moses (Jul 4, 2023 08:10 EDT)

.....  
A Commissioner for Taking Affidavits

Rachel Moses / LSO# 42081V

---



**MINDEN GROSS LLP**  
**BARRISTERS & SOLICITORS**  
145 KING STREET WEST, SUITE 2200  
TORONTO, ON, CANADA M5H 4G2  
TEL 416.362.3711 FAX 416.864.9223  
www.mindengross.com

DIRECT DIAL 416-369-4115  
E-MAIL rmoses@mindengross.com  
FILE 4127965  
NUMBER

May 16, 2022

**PERSONAL & CONFIDENTIAL**  
**VIA EMAIL ([bridgenorth989@gmail.com](mailto:bridgenorth989@gmail.com))**

2668144 Ontario Inc.  
989 Ward Street  
Bridgenorth ON K0L 1H0

**Attention: Shakive Rahaman and Asminur Rahaman**

Dear Sir/Madam:

**Re: Royal Bank of Canada (the "Bank") loans to 2668164 Ontario Inc.  
(the "Borrower")**

---

As you are aware, the accounts of the Borrower have been transferred to RBC's Special Loans and Advisory Services Group. We have been retained by the Bank in connection with the indebtedness owing by the Borrower to the Bank.

The terms of the credit facilities offered to the Borrower by the Bank are set out in a credit agreement dated June 22, 2021 (as subsequently amended, replaced, restated or supplemented from time to time, including the credit facilities letter in connection with the BDC HASCAP Facility dated January 24, 2022 and Royal Bank of Canada Term Loan Renewal Agreement dated February 14, 2022, the "**Credit Agreement**"). All capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Credit Agreement.

As you are aware, by email correspondence sent on April 13, 2022, April 21, 2022 and April 28, 2022, the Bank requested that the Borrower provide certain information in connection with Potential Prior-Ranking Claims (as defined in the Credit Agreement) in accordance with the Reporting Requirements established under the Credit Agreement ("**CRA/HST/Source Deduction Information**").

The failure to provide the Bank with the CRA/HST/Source Deduction Information constitutes an Event of Default under the Credit Agreement and the General Security Agreement dated February 11, 2019 (the "**Reporting Default**").



The Bank is not prepared to tolerate the Reporting Default and requires the Borrower to remedy the Reporting Default by **June 1, 2022**. The Bank is not waiving any defaults under the Credit Agreement or any other documents executed and delivered in connection therewith whether listed herein or not listed herein.

The Bank specifically reserves all of its rights and remedies that it has under contract and law.

All future correspondence must be directed to my attention. Should you or your lawyers have any questions, please contact me at the email address noted herein or on my mobile number being 647 968 5942.

Yours truly,  
**MINDEN GROSS LLP**  
Per:


A handwritten signature in cursive script that reads 'R. Moses'.

**Rachel Moses**  
RM/cc

#52436834127965 v1

---

This is Exhibit "K" referred to  
in the Affidavit of Michael Foster  
Sworn this 30<sup>th</sup>  
day of June, 2023.

  
Rachel Moses (Jul 4, 2023 08:10 EDT)

.....  
A Commissioner for Taking Affidavits

Rachel Moses / LSO# 42081V

---



**MINDEN GROSS LLP**  
**BARRISTERS & SOLICITORS**  
145 KING STREET WEST, SUITE 2200  
TORONTO, ON, CANADA M5H 4G2  
TEL 416.362.3711 FAX 416.864.9223  
www.mindengross.com

DIRECT DIAL 416-369-4115  
E-MAIL rmoses@mindengross.com  
FILE 4127965  
NUMBER

October 20, 2022

**PERSONAL AND CONFIDENTIAL**

**VIA REGISTERED AND ORDINARY MAIL  
AND EMAIL ([bridgenorth989@gmail.com](mailto:bridgenorth989@gmail.com))**

2668144 Ontario Inc.  
989 Ward Street  
Bridgenorth ON K0L 1H0

2668144 Ontario Inc.  
104 Rothwell Gardens  
Peterborough ON K9H 0G8

**Attention: Shakive Rahaman and Asminur Rahaman**

Dear Sir/Madam:

**Re: Royal Bank of Canada ("Bank")  
Notice of Non-Renewal of \$1,273,852.04 Term Loan to 2668144 Ontario Inc.  
("Company")**

---

We have been retained by the Bank in connection with the indebtedness owing by the Company to the Bank.

As you are aware, under a Credit Facilities Letter Agreement dated June 22, 2021 (as subsequently amended, replaced, restated or supplemented from time to time, and Royal Bank of Canada Term Loan Renewal Agreement dated February 14, 2022, the "**Credit Agreement**"), the Bank made available to the Company a \$1,273,852.04 fixed rate term loan (non-revolving) ("**Term Loan**") repayable in full on maturity.

Please be advised that in accordance with the Credit Agreement, the Term Loan matures on March 5, 2023 and will not be renewed by the Bank.



Accordingly, the Bank strongly suggests that the Company make arrangements with another financial institution in order to repay the outstanding amounts owing under the Term Loan, and all other Indebtedness (as defined in the Credit Agreement) by no later than March 5, 2023.

Yours very truly,  
**MINDEN GROSS LLP**  
Per:

A handwritten signature in cursive script that reads 'R. Moses'.


**Rachel Moses**

RM/cc

cc: Michael Foster, Senior Manager, Royal Bank of Canada

---

This is Exhibit "L" referred to  
in the Affidavit of Michael Foster  
Sworn this 30<sup>th</sup>  
day of June, 2023.

  
Rachel Moses (Jul 4, 2023 08:10 EDT)

.....  
A Commissioner for Taking Affidavits

Rachel Moses / LSO# 42081V

---

**From:** [Foster, Michael](#)  
**To:** ["Bridgenorth Esso3"](#)  
**Cc:** [Foster, Michael](#)  
**Subject:** RE: Mortgage renewal  
**Date:** Monday, November 28, 2022 7:58:09 AM  
**Attachments:** [DOCS1-#5454490-v1-Non-Renewal Letter to 2668144 Ontario Inc - October 2....pdf](#)

---

Good morning.

The bank has provided its instructions with a significant amount of notice of non-renewal. At this time, the Bank is not willing to entertain a renewal and/or a renegotiation of terms to facilitate any additional advances.

The Bank strongly suggests that the Company make arrangements with another financial institution in order to repay the outstanding amounts under the Term Loan and all other Indebtedness (as defined in the Credit Agreement) by no later than March 5, 2023.

Please advise if there is anything further needed.

Michael Foster | Senior Manager | Special Loans & Advisory Services | Royal Bank of Canada |  
20 King Street West, 2nd Floor, Toronto, ON, Canada, M5H 1C4 | T : 416-346-1389 | E-  
mail: [michael.foster@rbc.com](mailto:michael.foster@rbc.com)

---

**From:** Bridgenorth Esso3 [mailto:[bridgenorth989@gmail.com](mailto:bridgenorth989@gmail.com)]  
**Sent:** Sunday, November 27, 2022 3:29 PM  
**To:** Foster, Michael <[michael.foster@rbc.com](mailto:michael.foster@rbc.com)>  
**Subject:** Mortgage renewal

[\[External/|Externe\]](#)

Good afternoon Michael If possible can you renewal our mortgage another one more year And give me another 100000 Loan I will pay VT B Finish everything I will negotiation Maybe they are agreed If we pay 100000 Then VT B should be clear And they will discharge the VT B I will try my best Please Let me know if possibleTalkTo your boss Let me know as soon as possible please thanks have a great day and stay safe

---

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Si vous recevez ce courriel par erreur, veuillez en aviser l'expéditeur immédiatement, par retour de courriel ou par un autre moyen. Vous avez accepté de recevoir le(s) document(s) ci-joint(s) par voie électronique à l'adresse courriel indiquée ci-dessus; veuillez conserver une copie de cette confirmation pour les fins de référence future.



---

This is Exhibit "M" referred to  
in the Affidavit of Michael Foster  
Sworn this 30<sup>th</sup>  
day of June, 2023.

  
Rachel Moses (Jul 4, 2023 08:10 EDT)

.....  
A Commissioner for Taking Affidavits

Rachel Moses / LSO# 42081V

---

---

**From:** Foster, Michael  
**Sent:** Monday, December 5, 2022 1:09 PM  
**To:** 'Bridgenorth Esso3' <bridgenorth989@gmail.com>  
**Cc:** Foster, Michael <michael.foster@rbc.com>  
**Subject:** RE: Rbc mortgage

Good afternoon. The preference is the total banking relationship, including the current account, be moved upon paying the commercial mortgage.

Happy to discuss further.

Thanks,

Mike

Michael Foster | Senior Manager | Special Loans & Advisory Services | Royal Bank of Canada |  
20 King Street West, 2nd Floor, Toronto, ON, Canada, M5H 1C4 | T : 416-346-1389 | E-  
mail: [michael.foster@rbc.com](mailto:michael.foster@rbc.com)

---

**From:** Bridgenorth Esso3 [mailto:bridgenorth989@gmail.com]  
**Sent:** Monday, December 5, 2022 1:06 PM  
**To:** Foster, Michael <michael.foster@rbc.com>  
**Subject:** Rbc mortgage

[External]/[Externe]

Good afternoon Michael Question I have checking account And I have lined up credit 65000 And Visa card 15000 Total is 80000 When I pay the mortgage I have to pay Separate can you check please also can I use my RBC account When mortgage is paid still I can use my account Or you guys close the account let me know please Thanks have a great day and stay safe


---

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---

This is Exhibit "N" referred to  
in the Affidavit of Michael Foster  
Sworn this 30<sup>th</sup>  
day of June, 2023.

  
Rachel Moses (Jul 4, 2023 08:10 EDT)

.....  
A Commissioner for Taking Affidavits

Rachel Moses / LSO# 42081V

---

**From:** [Rachel Moses](#)  
**To:** [Bridgenorth Esso3](#)  
**Cc:** [Foster, Michael](#)  
**Subject:** TIME SENSITIVE: \$1,273,852.04 Term Loan to 2668144 Ontario Inc.  
**Date:** Tuesday, March 07, 2023 5:12:54 PM  
**Attachments:** [image003.png](#)  
[image001.png](#)  
[image003.png](#)  
[PE395360. Registered Discharge of Charge.pdf](#)  
[image003.png](#)  
**Importance:** High

Good Afternoon,

As you are aware, we are the lawyers for Royal Bank of Canada (the “**Bank**”) in connection with the \$1,273,852.04 Term Loan to 2668144 Ontario Inc. (the “**Company**”). In response to your email below, we remind you that notice of non-renewal was sent to you on October 20, 2022 and confirmed in later communications by the Bank. You have been repeatedly advised that on or before March 21, 2023 the Term Loan and all other indebtedness owing to the Bank must be repaid in full. We strongly suggest that you make immediate arrangements to comply with your obligations under the loan and security documents delivered to the Bank.



**RACHEL MOSES**

**T:** [416.369.4115](tel:416.369.4115) **F:** 416.864.9223 [www.mindengross.com](http://www.mindengross.com)  
 145 King St. West, Suite 2200, Toronto, ON M5H 4G2  
 Save contact details: [Rachel Moses](#)

MERITAS LAW FIRMS WORLDWIDE

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**From:** Bridgenorth Esso3 [<mailto:bridgenorth989@gmail.com>]  
**Sent:** Thursday, March 2, 2023 8:05 PM  
**To:** Foster, Michael <[michael.foster@rbc.com](mailto:michael.foster@rbc.com)>  
**Subject:** Fwd: FW: Rahaman et al v. Patel et al

[External]/[Externe]

Good evening Michael i send the email for vtb discharge letter can you check please also can you renewal my mortgage if possible let me know please thanks have a great night and stay safe

----- Forwarded message -----

From: **Bridgenorth Esso3** <[bridgenorth989@gmail.com](mailto:bridgenorth989@gmail.com)>  
Date: Thu, Mar 2, 2023, 4:58 p.m.  
Subject: Fwd: FW: Rahaman et al v. Patel et al  
To: <[bbatra@mortgagediligent.com](mailto:bbatra@mortgagediligent.com)>

I send the email for bank documents for vtb can you check please thanks

----- Forwarded message -----

From: **Jim Smith** <[JSmith@rzcdlaw.com](mailto:JSmith@rzcdlaw.com)>  
Date: Thu, Mar 2, 2023, 4:16 p.m.  
Subject: FW: Rahaman et al v. Patel et al  
To: Bridgenorth Esso3 <[bridgenorth989@gmail.com](mailto:bridgenorth989@gmail.com)>, Sajed Rahaman <[petrovplus2241@gmail.com](mailto:petrovplus2241@gmail.com)>

Hi guys, excellent news, the mortgage is now discharged from the property, please see attached, we will now take out an order formally dismissing the action. Jim.

---

James R. Smith | Partner | RZCD Law Firm LLP  
Suite 700, 77 City Centre Drive | Mississauga, Ontario L5B 1M5  
☎ 905.848.6100 ext.228 | 📠 905.896.1111  
✉ [jsmith@rzcdlaw.com](mailto:jsmith@rzcdlaw.com) | [www.rzcdlaw.com](http://www.rzcdlaw.com)

Assistant: Alexandra Huang, ext. 247



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**From:** Ronald Flom [mailto:[ronaldflom@gmail.com](mailto:ronaldflom@gmail.com)]  
**Sent:** March 2, 2023 2:31 PM  
**To:** Carolyn Blocka <[cblocka@RZCDLAW.COM](mailto:cblocka@RZCDLAW.COM)>; Jim Smith <[JSmith@RZCDLAW.COM](mailto:JSmith@RZCDLAW.COM)>  
**Subject:** Re: Rahaman et al v. Patel et al

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Attached please find a copy of the registered Discharge of Charge.

Justina

On Thu, Mar 2, 2023 at 2:13 PM Carolyn Blocka <[cblocka@rzcdlaw.com](mailto:cblocka@rzcdlaw.com)> wrote:

Good Afternoon Mr. Flom:

Please see attached confirmation of deposit of the settlement funds in the amount of \$65,000.00 into your trust account.

Thank you.

Yours very truly,

---

Carolyn Blocka | Law Clerk to James R. Smith | RZCD Law Firm LLP  
 Suite 700, 77 City Centre Drive | Mississauga, Ontario L5B 1M5  
 ☎ 905.848.6100 ext. 247 | 📠 905.896.1111  
 📧 [CBlocka@rzcdlaw.com](mailto:CBlocka@rzcdlaw.com) | [www.rzcdlaw.com](http://www.rzcdlaw.com)

**MASKS ARE OPTIONAL AT OUR OFFICE, BUT RECOMMENDED. PLEASE DO NOT COME TO OUR OFFICE IF YOU HAVE COLD OR FLU-LIKE SYMPTOMS.**



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---

**From:** Ronald Flom [<mailto:ronaldflom@gmail.com>]

**Sent:** March 2, 2023 1:27 PM

**To:** Jim Smith <[JSmith@RZCDLAW.COM](mailto:JSmith@RZCDLAW.COM)>

**Subject:** Rahaman et al v. Patel et al

**[ WARNING ] - This message comes from an external organization/individual. Do NOT reply, click links or open attachment(s) unless you recognize the sender. If the sender appears to be someone from RZCD, please contact the user directly. Also, NEVER provide your username, password, personal or credit card information.**

Jim,

Further to your email of March 1, 2023, I attach the signed Mutual Full and Final Release executed by our clients. I confirm that you have my consent to execute the Consent Order in the form that you have forwarded to me. As further assurance that you have the cooperation of our clients, I attach an Acknowledgement of Cooperation duly executed.

The documents attached are to be held in escrow pending receipt of the settlement funds to our trust account, the details of which have been previously forwarded to you.

Upon receipt of the funds, we will attend to the discharge of the mortgage and provide you with a true copy of same. Please confirm your deposit of the settlement funds into my trust account.

Let's conclude this today.

Regards,

Ron Flom  
RF/jl

--

**RONALD FLOM**  
**BARRISTERS & SOLICITORS**  
*The Edison Centre*  
*2345 Yonge Street, Suite 712*  
*Toronto, Canada*  
*M4P 2E5*  
*Telephone (416)482-2777*  
*Fax (416)482-2599*

--

**RONALD FLOM**  
**BARRISTERS & SOLICITORS**

*The Edison Centre*

*2345 Yonge Street, Suite 712*

*Toronto, Canada*

*M4P 2E5*

*Telephone (416)482-2777*

*Fax (416)482-2599*

---


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---

This is Exhibit "O" referred to  
in the Affidavit of Michael Foster  
Sworn this 30<sup>th</sup>  
day of June, 2023.

  
Rachel Moses (Jul 4, 2023 08:10 EDT)

.....  
A Commissioner for Taking Affidavits

Rachel Moses / LSO# 42081V

---



MINDEN GROSS LLP
BARRISTERS & SOLICITORS
145 KING STREET WEST, SUITE 2200
TORONTO, ON, CANADA M5H 4G2
TEL 416.362.3711 FAX 416.864.9223
www.mindengross.com

DIRECT DIAL (416) 369-4115
E-MAIL rmoses@mindengross.com
FILE 4127965
NUMBER

April 10, 2023

PERSONAL & CONFIDENTIAL
VIA REGISTERED MAIL, ORDINARY MAIL AND EMAIL (bridgenorth989@gmail.com)

Table with 2 columns and 1 row containing addresses for 2668144 Ontario Inc. and 104 Rothwell Gardens.

Dear Sirs:

Re: Royal Bank of Canada ("Bank") and 2668144 Ontario Inc. ("Company")

We have been retained by the Bank in respect of the indebtedness owing to it by the Company.

We refer you to a credit agreement dated June 22, 2021 between the Bank and the Company ("Credit Agreement"). As you are no doubt aware, the indebtedness owing by the Company to the Bank in connection with i) the Term Loan (defined below) became due and payable on maturity (March 21, 2023) and ii) the RCL (defined below) is repayable on demand. We have been advised by the Bank that as at March 31, 2023 the Company is indebted to it in the following amounts in accordance with the Credit Agreement:

- 1. in respect of a non-revolving term facility, in the amount of \$1,165,072.53, comprising principal in the amount of \$1,163,470.13 and accrued interest to and including March 31, 2023 in the amount of \$1,602.40 ("Term Loan"). Interest continues to accrue on the aforesaid principal amount at the rate of 5.01% per annum. The per diem amount on the aforesaid principal amount is \$145.67; and
2. in respect of a revolving demand facility ("RCL"), in the amount of \$60,061.62, comprising principal in the amount of \$60,000.00 and accrued interest to and including March 31, 2023 in the amount of \$61.62. Interest continues to accrue on the aforesaid principal amount at the Bank's prime rate plus 2.48% per annum. The per diem amount on the aforesaid principal amount, given the Bank's current prime rate, is \$15.09.



In addition, we refer you to a credit facilities agreement dated January 24, 2022 between the Bank and the Company, including the Terms and Conditions, establishing a \$100,000 non-revolving term facility under the Highly Affected Sectors Credit Availability Program (“**HASCAP Loan Agreement**”).

In accordance with section (b) of Events of Default under Terms and Conditions, the Bank is entitled to make demand for the payment of all amounts owing under the HASCAP Loan Agreement when the Company fails to observe any covenant, term or condition contained in the Credit Agreement delivered to the Bank. The Company has failed to pay all amounts owing under the Term Loan, which is immediately due and payable pursuant to the Credit Agreement, as the Term Loan matured on March 21, 2023 and was not renewed by the Bank.

We have been advised by the Bank that as of March 31, 2023, the indebtedness owing by the Company under the HASCAP Loan Agreement is in the amount of \$99,323.80, comprising principal in the amount of \$99,074.08 and accrued interest to and including March 31, 2023 in the amount of \$249.72. Interest continues to accrue on the aforesaid principal amount at the rate of 4.00%. The per diem amount is \$10.86.

We have been advised that as of March 31, 2023, the Company is indebted to the Bank in respect of Visa account number xxxx xxxx xxxx 6533 in the amount of \$14,318.79. Interest continues to accrue on the aforesaid amount at the rate in effect from time to time in accordance with your Visa arrangements with the Bank.

We further advise you that the Bank reserves the right to cancel at any time, without further notice to you, your Visa card privileges in respect of account number xxxx xxxx xxxx 6533.

In addition, we refer to the \$60,000.00 advanced by the Bank to the Company under the Canada Emergency Business Account program.

On behalf of the Bank, we hereby advise you that the right of the Company to make any further borrowings under its agreement(s) with the Bank, and the obligation of the Bank to provide such borrowings, is hereby terminated and the indebtedness owing to the Bank by the Company expressed above is hereby declared to be immediately due and payable. Accordingly, on behalf of the Bank, we hereby formally make demand upon the Company for the payment by no later than April 20, 2023 of the amounts expressed above and all interest accruing thereon up until the date of payment in full and for all other amounts which the Company is liable for to the Bank in accordance with the security delivered by the Company to the Bank, including, without limitation, legal fees on a full indemnity basis.

In the event payment is not made as requested, we must advise you that the Bank reserves its rights to take such further steps as are necessary to recover the indebtedness and liabilities owing by the Company to the Bank, including, without limitation, the appointment of a receiver and manager of the property, assets and undertaking of the



Company and the Bank shall commence such legal proceedings it is entitled to commence against the Company in connection with its liabilities and obligations under any and all mortgage security delivered by the Company to the Bank.

We further advise the Company that the Bank expressly reserves its rights to take such further steps as are necessary at any time prior to April 20, 2023 without further notice to you if the Bank becomes aware of any matter which may impair its security. In addition, the Bank expressly reserves its rights not to make further advances to you or to honour any cheques drawn on the accounts maintained by you with the Bank. However, in the event the Bank, in its discretion, makes such advances or honours such cheques, such conduct shall not extend the time to make payment as set out herein or impose any obligation on the Bank to make further advances or honour further cheques and any additional indebtedness arising therefrom shall be immediately repayable to the Bank.

We enclose a notice of intention to enforce security pursuant to Section 244(1) of the *Bankruptcy and Insolvency Act* (Canada).

If you wish to discuss this matter with us, please contact us immediately either directly or through your solicitors.

Yours truly,  
**MINDEN GROSS LLP**  
Per:  
*Rachel Moses*  
(*electronic signature*)  
Rachel Moses

cc Royal Bank of Canada  
Attn: M. Foster, Sr. Manager – Special Loans and Advisory Services

**NOTICE OF INTENTION TO ENFORCE SECURITY  
PURSUANT TO THE BANKRUPTCY AND INSOLVENCY ACT (CANADA)  
SECTION 244**

**PERSONAL & CONFIDENTIAL  
REGISTERED MAIL AND ORDINARY MAIL**

**TO: 2668144 ONTARIO INC.,** an insolvent person

**TAKE NOTICE THAT:**

1. Royal Bank of Canada, a secured creditor, intends to enforce its security on the insolvent person's property described below:  
  
all personal property of the insolvent person, including, without limitation, all inventory, equipment, machinery, fixtures, book debts, contractual rights, monies, chattel paper, intellectual property and goodwill of the insolvent person, together with all proceeds, additions, accretions and substitutions therefor.
2. The security that is to be enforced is in the form of a General Security Agreement dated February 11, 2019 and a collateral mortgage in the amount of \$1,445,000.00, registered as Instrument No. PE306608 on March 5, 2019 and constituting a first fixed charge on the lands and improvements located at 989 Ward Street, Bridgenorth, Ontario.
3. The total amount of indebtedness secured by the security as at March 31, 2023 is \$1,338,776.74, plus all legal and other expenses incurred by the secured creditor, which expenses are secured by the above-noted security.
4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period following the sending of this notice, unless the insolvent person consents to an earlier enforcement.

**DATED** at Toronto this 10<sup>th</sup> day of April, 2023.

**ROYAL BANK OF CANADA**  
by its solicitors, MINDEN GROSS LLP

Per: *Rachel Moses*  
(*electronic signature*)

---

Rachel Moses



MINDEN GROSS LLP
BARRISTERS & SOLICITORS
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TORONTO, ON, CANADA M5H 4G2
TEL 416.362.3711 FAX 416.864.9223
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E-MAIL rmoses@mindengross.com
FILE 4127965
NUMBER

April 10, 2023

PERSONAL & CONFIDENTIAL
VIA REGISTERED MAIL, ORDINARY MAIL AND EMAIL (bridgenorth989@gmail.com)

Table with 2 columns: Asminur Rahaman and Shakive Rahaman (104 Veterans Drive, Brampton, ON L7A 3Z7) and Asminur Rahaman (77 Education Road, Brampton, ON L6P 3P3)

Dear Sirs:

Re: Royal Bank of Canada ("Bank") and 2668144 Ontario Inc. ("Company")

We have been retained by the Bank in respect of the indebtedness owing to it by you.

As you are aware, you each jointly and severally guaranteed all of the indebtedness and liabilities, present or future, direct or indirect, absolute or contingent, matured or not at any time owing by the Company to the Bank or remaining unpaid by the Company to the Bank under a guarantee and postponement of claim dated February 11, 2019 limited to the sum of \$1,445,000.00.

As of March 31, 2023, the Company is indebted to the Bank in the following amounts:

- 1. in respect of a non-revolving term facility, in the amount of \$1,165,072.53, comprising principal in the amount of \$1,163,470.13 and accrued interest to and including March 31, 2023 in the amount of \$1,602.40. Interest continues to accrue on the aforesaid principal amount at the rate of 5.01% per annum. The per diem amount on the aforesaid principal amount is \$145.67;
2. in respect of a revolving demand facility, in the amount of \$60,061.62, comprising principal in the amount of \$60,000.00 and accrued interest to and including March 31, 2023 in the amount of \$61.62. Interest continues to accrue on the aforesaid principal amount at the Bank's prime rate plus 2.48% per annum. The per diem amount on the aforesaid principal amount, given the Bank's current prime rate, is \$15.09;



3. in respect of Visa account number xxxx xxxx xxxx 6533, in the amount of \$14,318.79 as at March 31, 2023. Interest continues to accrue on the aforesaid amount at the rate in effect from time to time in accordance with the Company's Visa arrangements with the Bank; and
4. \$60,000.00 advanced by the Bank to the Company under the Canada Emergency Business Account Program.

On behalf of the Bank, we hereby formally make demand upon each of you for the payment by no later than April 20, 2023 of all of the amounts expressed above, all interest accruing thereon and under your guarantee and postponement of claim from the date hereof up until the date of payment in full and for all other amounts which the Company is liable for to the Bank in accordance with the security delivered by the Company to the Bank, including, without limitation, legal fees on a full indemnity basis.

In the event payment is not made as requested, the Bank shall commence such legal proceedings it is entitled to commence against each of you in connection with your liabilities and obligations under the aforesaid guarantee and postponement of claim.

We further advise you that the Bank expressly reserves its rights to take such further steps as are necessary at any time prior to April 20, 2023 without further notice to either of you if the Bank becomes aware of any matter which may impair its security.


If you wish to discuss this matter with us, please contact us immediately either directly or through your solicitor.

Yours truly,  
**MINDEN GROSS LLP**  
Per:  
*Rachel Moses*  
*(electronic signature)*  
Rachel Moses

cc Royal Bank of Canada  
Attn: M. Foster, Sr. Manager – Special Loans and Advisory Services

---

This is Exhibit "P" referred to  
in the Affidavit of Michael Foster  
Sworn this 30<sup>th</sup>  
day of June, 2023.

  
Rachel Moses (Jul 4, 2023 08:10 EDT)

.....  
A Commissioner for Taking Affidavits  
Rachel Moses / LSO# 42081V

---



**From:** [Bridgenorth Esso3](#)  
**To:** [Rachel Moses](#)  
**Subject:** Fwd: RBC/2668144 Ontario Inc. - Demand Letters & BIA Notice  
**Date:** Monday, April 10, 2023 3:48:30 PM  
**Attachments:** [Demand Letter & BIA Notice.pdf](#)  
[Guarantor Demand Letter.pdf](#)

---

Hi Moses I'm doing refinancing for another bank give me some time I'm working on it. Environment report is done and the appraisal is under process, appraisal inspection is done, appraisal report is awaited, refinancing process will take some more time. Please allow us more time and do not start the recovery process.

----- Forwarded message -----

**From:** **Bridgenorth Esso3** <[bridgenorth989@gmail.com](mailto:bridgenorth989@gmail.com)>  
**Date:** Mon, Apr 10, 2023, 3:40 p.m.  
**Subject:** Fwd: RBC/2668144 Ontario Inc. - Demand Letters & BIA Notice  
**To:** <[Michael.foster@rbc.com](mailto:Michael.foster@rbc.com)>

Hi Michael I'm doing refinancing for another bank give me some time I'm working on it. Environment report is done and the appraisal is under process, appraisal inspection is done, appraisal report is awaited, refinancing process will take some more time. Please allow us more time and do not start the recovery process.

----- Forwarded message -----

**From:** **Bridgenorth Esso3** <[bridgenorth989@gmail.com](mailto:bridgenorth989@gmail.com)>  
**Date:** Mon, Apr 10, 2023, 3:21 p.m.  
**Subject:** Fwd: RBC/2668144 Ontario Inc. - Demand Letters & BIA Notice  
**To:** <[bbatra@mortgagediligent.com](mailto:bbatra@mortgagediligent.com)>

----- Forwarded message -----

**From:** **Bridgenorth Esso3** <[bridgenorth989@gmail.com](mailto:bridgenorth989@gmail.com)>  
**Date:** Mon, Apr 10, 2023, 3:21 p.m.  
**Subject:** Fwd: RBC/2668144 Ontario Inc. - Demand Letters & BIA Notice  
**To:** <[rafiq.canada@gmail.com](mailto:rafiq.canada@gmail.com)>

----- Forwarded message -----

**From:** **Bridgenorth Esso3** <[bridgenorth989@gmail.com](mailto:bridgenorth989@gmail.com)>  
**Date:** Mon, Apr 10, 2023, 3:20 p.m.  
**Subject:** Fwd: RBC/2668144 Ontario Inc. - Demand Letters & BIA Notice  
**To:** <[bbatra@mortgagediligent.com](mailto:bbatra@mortgagediligent.com)>, <[rafiq.canada@gmail.com](mailto:rafiq.canada@gmail.com)>

I send the email can you check please thanks

----- Forwarded message -----

**From:** **Terri Hachey** <[THachey@mindengross.com](mailto:THachey@mindengross.com)>  
**Date:** Mon, Apr 10, 2023, 9:49 a.m.  
**Subject:** RBC/2668144 Ontario Inc. - Demand Letters & BIA Notice

To: [bridgenorth989@gmail.com](mailto:bridgenorth989@gmail.com) <[bridgenorth989@gmail.com](mailto:bridgenorth989@gmail.com)>  
Cc: Rachel Moses <[RMoses@mindengross.com](mailto:RMoses@mindengross.com)>, Carol Liu <[CLiu@mindengross.com](mailto:CLiu@mindengross.com)>

Please see attached correspondence from Rachel Moses.



**TERRI HACHEY**


Legal Assistant    **T:** [416.369.4301](tel:416.369.4301) ext. 1261    **F:** 416.864.9223    [www.mindengross.com](http://www.mindengross.com)  
145 King St. West, Suite 2200, Toronto, ON M5H 4G2  
Save contact details: [Terri Hachey](#)

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---

This is Exhibit "Q" referred to  
in the Affidavit of Michael Foster  
Sworn this 30th  
day of June, 2023.

  
Rachel Moses (Jul 4, 2023 08:10 EDT)

.....  
A Commissioner for Taking Affidavits

Rachel Moses / LSO# 42081V

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**Christine Cavarzan**

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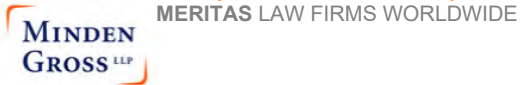
**From:** Rachel Moses  
**Sent:** Thursday, May 11, 2023 10:52 AM  
**To:** Craig Lewis  
**Cc:** Laura Whalen; Michael Foster  
**Subject:** RE: 2668144 Ontario Inc. o/a Bridge North Esso  
**Attachments:** DOCS1-#5721963-v1-Forbearance\_Agreement\_-\_2668144\_Ontario\_Inc\_.PDF

Hi Craig,

Please see attached forbearance agreement with schedules for your clients' execution. Note, the sign back deadline is Tuesday, May 16, 2023 at 4 pm.

---

**Rachel Moses** | T: 416.369.4115 | F: 416.864.9223 | [www.mindengross.com](http://www.mindengross.com)




---

**From:** Craig Lewis <clewis@RZCDLAW.COM>  
**Sent:** Friday, May 05, 2023 11:50 AM  
**To:** Rachel Moses <RMoses@mindengross.com>  
**Cc:** Laura Whalen <LWhalen@RZCDLAW.COM>  
**Subject:** 2668144 Ontario Inc. o/a Bridge North Esso  
**Importance:** High

Rachel,

Please be advised that we have been retained by the above-noted company with respect to its indebtedness to RBC.

In that regard, I am in receipt of your letter to the client dated April 10, 2023.

Would you please advise as to whether RBC is prepared to enter into a forbearance agreement which would allow our client to retire the indebtedness in accordance with a set structure?

We look forward to hearing from you at your convenience.

Best regards,

Craig

---

**Craig A. Lewis** | Partner | RZCD Law Firm LLP  
 Suite 700, 77 City Centre Drive | Mississauga, Ontario L5B 1M5  
 ☎ 905.848.6100 x 264 | 📠 905.896.1111 | ✉ [clewis@rzcdlaw.com](mailto:clewis@rzcdlaw.com) | [www.rzcdlaw.com](http://www.rzcdlaw.com) or  
[www.employmentlawyermississauga.com](http://www.employmentlawyermississauga.com)



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---

This is Exhibit "R" referred to  
in the Affidavit of Michael Foster  
Sworn this 30<sup>th</sup>  
day of June, 2023.



Rachel Moses (Jul 4, 2023 08:10 EDT)

A Commissioner for Taking Affidavits

Rachel Moses / LSO# 42081V

---

**Christine Cavarzan**

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**From:** Rachel Moses  
**Sent:** Thursday, May 11, 2023 4:35 PM  
**To:** Craig Lewis  
**Cc:** Laura Whalen; Michael Foster  
**Subject:** RE: 2668144 Ontario Inc. o/a Bridge North Esso

Hi Craig,

The Bank is not prepared to grant any additional time, beyond July 25, 2023, for the matured Term Facility to be repaid by the Borrower. As you are aware, on May 16, 2022, the Bank sent a default letter to the Borrower in connection with the Borrower's failure to provide certain information regarding potential arrears in HST remittances and source deductions in accordance with the Reporting Requirements established under the Credit Agreement.

On October 20, 2022, the Bank advised the Borrower that upon maturity in March 2023, the Term Facility would not be renewed and strongly advised the Borrower to make arrangements with another lender to repay the Term Facility. The Borrower asked the Bank for extensions and the Bank repeated its position that all indebtedness must be repaid on maturity as the Term Facility would not be renewed. The Borrower failed to repay the indebtedness on maturity.

The Bank has been fair and reasonable in its actions and has provided your client with ample notice of its position. Please advise if your clients will execute the forbearance agreement and appropriate schedules.

In the interim, the Bank reserves all of its rights and remedies.

---

**Rachel Moses** | T: 416.369.4115 | F: 416.864.9223 | [www.mindengross.com](http://www.mindengross.com)



---

**From:** Craig Lewis <clewis@RZCDLAW.COM>  
**Sent:** Thursday, May 11, 2023 3:32 PM  
**To:** Rachel Moses <RMoses@mindengross.com>  
**Cc:** Laura Whalen <LWhalen@RZCDLAW.COM>; Michael Foster <michael.foster@rbc.com>  
**Subject:** RE: 2668144 Ontario Inc. o/a Bridge North Esso  
**Importance:** High

Rachel,

I acknowledge receipt of the Forbearance Agreement today.

Our client is wondering whether there is any leniency on the part of RBC to extend the forbearance period from July 25, 2023 until May of 2024 (12 months) or at least for a longer period that provides a reasonable opportunity to market the property and sell it for the highest possible price to extend extinguish all RBC indebtedness.

Would you please review this with your client and provide us with the greatest extension possible?

Thanking you in advance for your consideration.

Best regards,

Craig

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**Craig A. Lewis** | Partner | RZCD Law Firm LLP  
 Suite 700, 77 City Centre Drive | Mississauga, Ontario L5B 1M5  
 ☎ 905.848.6100 x 264 | 📠 905.896.1111 | ✉ [clewis@rzcdlaw.com](mailto:clewis@rzcdlaw.com) | [www.rzcdlaw.com](http://www.rzcdlaw.com) or  
[www.employmentlawvermississauga.com](http://www.employmentlawvermississauga.com)



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---

**From:** Rachel Moses [<mailto:RMoses@mindengross.com>]  
**Sent:** May 11, 2023 10:52 AM  
**To:** Craig Lewis <[clewis@RZCDLAW.COM](mailto:clewis@RZCDLAW.COM)>  
**Cc:** Laura Whalen <[LWhalen@RZCDLAW.COM](mailto:LWhalen@RZCDLAW.COM)>; Michael Foster <[michael.foster@rbc.com](mailto:michael.foster@rbc.com)>  
**Subject:** RE: 2668144 Ontario Inc. o/a Bridge North Esso

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Hi Craig,



Please see attached forbearance agreement with schedules for your clients' execution. Note, the sign back deadline is Tuesday, May 16, 2023 at 4 pm.

---

**Rachel Moses** | T: 416.369.4115 | F: 416.864.9223 | [www.mindengross.com](http://www.mindengross.com)



MERITAS LAW FIRMS WORLDWIDE

---

**From:** Craig Lewis <[clewis@RZCDLAW.COM](mailto:clewis@RZCDLAW.COM)>  
**Sent:** Friday, May 05, 2023 11:50 AM  
**To:** Rachel Moses <[RMoses@mindengross.com](mailto:RMoses@mindengross.com)>  
**Cc:** Laura Whalen <[LWhalen@RZCDLAW.COM](mailto:LWhalen@RZCDLAW.COM)>  
**Subject:** 2668144 Ontario Inc. o/a Bridge North Esso  
**Importance:** High

Rachel,

Please be advised that we have been retained by the above-noted company with respect to its indebtedness to RBC.

In that regard, I am in receipt of your letter to the client dated April 10, 2023.

Would you please advise as to whether RBC is prepared to enter into a forbearance agreement which would allow our client to retire the indebtedness in accordance with a set structure?

We look forward to hearing from you at your convenience.

Best regards,

Craig

---

**Craig A. Lewis** | Partner | RZCD Law Firm LLP  
Suite 700, 77 City Centre Drive | Mississauga, Ontario L5B 1M5  
☎ 905.848.6100 x 264 | 📠 905.896.1111 | ✉ [clewis@rzcdbl.com](mailto:clewis@rzcdbl.com) | [www.rzcdbl.com](http://www.rzcdbl.com) or  
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**Christine Cavarzan**

---

**From:** Rachel Moses  
**Sent:** Tuesday, May 16, 2023 10:22 AM  
**To:** Craig Lewis  
**Cc:** Laura Whalen; Michael Foster  
**Subject:** RE: Bridgenorth Esso - Deadline for Signback under Forbearance Agreement

Hi Craig,

Please make sure that all Schedules are signed as well. Thank you for getting back to me.

---

**Rachel Moses** | T: 416.369.4115 | F: 416.864.9223 | [www.mindengross.com](http://www.mindengross.com)



---

**From:** Craig Lewis <clewis@RZCDLAW.COM>  
**Sent:** Tuesday, May 16, 2023 10:20 AM  
**To:** Rachel Moses <RMoses@mindengross.com>  
**Cc:** Laura Whalen <LWhalen@RZCDLAW.COM>  
**Subject:** Bridgenorth Esso  
**Importance:** High

Rachel,

I am out of the office today but I have spoken with the client and he confirms that he will be signing the Forbearance Agreement.

We have asked that he send it to us today but it may not get to you until tomorrow.

We hope that this is satisfactory.

Best regards,

Craig

---

**Craig A. Lewis** | Partner | RZCD Law Firm LLP  
Suite 700, 77 City Centre Drive | Mississauga, Ontario L5B 1M5  
☎ 905.848.6100 x 264 | 📠 905.896.1111 | ✉ [clewis@rzcdlaw.com](mailto:clewis@rzcdlaw.com) | [www.rzcdlaw.com](http://www.rzcdlaw.com) or  
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---

This is Exhibit "S" referred to  
in the Affidavit of Michael Foster  
Sworn this 30<sup>th</sup>  
day of June, 2023.

  
Rachel Moses (Jul 4, 2023 08:10 EDT)

.....  
A Commissioner for Taking Affidavits  
Rachel Moses / LSO# 42081V

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**Christine Cavarzan**

---

**From:** Rachel Moses  
**Sent:** Thursday, May 18, 2023 4:48 PM  
**To:** Craig Lewis  
**Cc:** Laura Whalen; Michael Foster  
**Subject:** RE: TIME SENSITIVE - Bridgenorth Esso - Deadline for Signback under Forbearance Agreement

The Bank is considering its position. The Bank reserves its rights and remedies.

---

**Rachel Moses** | T: 416.369.4115 | F: 416.864.9223 | [www.mindengross.com](http://www.mindengross.com)




---

**From:** Craig Lewis <clewis@RZCDLAW.COM>  
**Sent:** Thursday, May 18, 2023 3:38 PM  
**To:** Rachel Moses <RMoses@mindengross.com>  
**Cc:** Laura Whalen <LWhalen@RZCDLAW.COM>; Michael Foster <michael.foster@rbc.com>  
**Subject:** RE: TIME SENSITIVE - Bridgenorth Esso - Deadline for Signback under Forbearance Agreement  
**Importance:** High

Rachel,

Please see the listing agreement attached hereto.

Kindly confirm receipt and advise if that is sufficient to extend.

Thank you,

Craig

---

**Craig A. Lewis** | Partner | RZCD Law Firm LLP  
 Suite 700, 77 City Centre Drive | Mississauga, Ontario L5B 1M5  
 ☎ 905.848.6100 x 264 | 📠 905.896.1111 | 📧 [clewis@rzcdlaw.com](mailto:clewis@rzcdlaw.com) | [www.rzcdlaw.com](http://www.rzcdlaw.com) or  
[www.employmentlawyermississauga.com](http://www.employmentlawyermississauga.com)



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**From:** Rachel Moses [<mailto:RMoses@mindengross.com>]  
**Sent:** May 18, 2023 2:27 PM  
**To:** Craig Lewis <[clewis@RZCDLAW.COM](mailto:clewis@RZCDLAW.COM)>  
**Cc:** Laura Whalen <[LWhalen@RZCDLAW.COM](mailto:LWhalen@RZCDLAW.COM)>; Michael Foster <[michael.foster@rbc.com](mailto:michael.foster@rbc.com)>  
**Subject:** RE: TIME SENSITIVE - Bridgenorth Esso - Deadline for Signback under Forbearance Agreement

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Craig,

Show me evidence before 4 p.m. that the property and/or business is listed with a broker, together with the listing agreement and brokerage agreement.

The Bank continues to reserve its rights and remedies.

**Rachel Moses** | T: 416.369.4115 | F: 416.864.9223 | [www.mindengross.com](http://www.mindengross.com)



**From:** Craig Lewis <[clewis@RZCDLAW.COM](mailto:clewis@RZCDLAW.COM)>  
**Sent:** Thursday, May 18, 2023 1:51 PM  
**To:** Rachel Moses <[RMoses@mindengross.com](mailto:RMoses@mindengross.com)>  
**Cc:** Laura Whalen <[LWhalen@RZCDLAW.COM](mailto:LWhalen@RZCDLAW.COM)>; Michael Foster <[michael.foster@rbc.com](mailto:michael.foster@rbc.com)>  
**Subject:** RE: TIME SENSITIVE - Bridgenorth Esso - Deadline for Signback under Forbearance Agreement  
**Importance:** High

Rachel,

I acknowledge receipt of your emails.

In spite of your emails, our client is wondering whether RBC is prepared to wait until the business is sold or, alternatively, except a co-signer on a renewal term of either 1 or 2 years.

It will take time to market the property for sale and thus July 25, 2023 does not give satisfactory time to market and close.

Perhaps an extension of a few additional months?

Please advise.

Best regards,

Craig

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**Craig A. Lewis** | Partner | RZCD Law Firm LLP  
 Suite 700, 77 City Centre Drive | Mississauga, Ontario L5B 1M5  
 ☎ 905.848.6100 x 264 | 📠 905.896.1111 | ✉ [clewis@rzcdlaw.com](mailto:clewis@rzcdlaw.com) | [www.rzcdlaw.com](http://www.rzcdlaw.com) or  
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---

**From:** Rachel Moses [<mailto:RMoses@mindengross.com>]  
**Sent:** May 18, 2023 9:30 AM  
**To:** Craig Lewis <[clewis@RZCDLAW.COM](mailto:clewis@RZCDLAW.COM)>  
**Cc:** Laura Whalen <[LWhalen@RZCDLAW.COM](mailto:LWhalen@RZCDLAW.COM)>; Michael Foster <[michael.foster@rbc.com](mailto:michael.foster@rbc.com)>  
**Subject:** TIME SENSITIVE - Bridgenorth Esso - Deadline for Signback under Forbearance Agreement

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Hi Craig,

As you are aware, the sign back deadline expired on Tuesday. You indicated that we would receive the signed forbearance agreement together with schedules by Wednesday. To date, nothing has been received. You also did not respond to my communication yesterday on the status of this matter. Please be advised that unless the Bank received the executed forbearance agreement with all schedules **before 4 p.m. today**, the offer to forbear on the terms set out in the forbearance agreement will expire and the Bank will be at liberty to enforce its rights and remedies.

In the interim, the Bank reserves all of its rights and remedies.

---

**Rachel Moses** | T: 416.369.4115 | F: 416.864.9223 | [www.mindengross.com](http://www.mindengross.com)





---

**From:** Rachel Moses  
**Sent:** Tuesday, May 16, 2023 10:22 AM  
**To:** 'Craig Lewis' <[clewis@RZCDLAW.COM](mailto:clewis@RZCDLAW.COM)>  
**Cc:** Laura Whalen <[LWhalen@RZCDLAW.COM](mailto:LWhalen@RZCDLAW.COM)>; Michael Foster <[michael.foster@rbc.com](mailto:michael.foster@rbc.com)>  
**Subject:** RE: Bridgenorth Esso - Deadline for Signback under Forbearance Agreement

Hi Craig,

Please make sure that all Schedules are signed as well. Thank you for getting back to me.

---

**Rachel Moses** | T: 416.369.4115 | F: 416.864.9223 | [www.mindengross.com](http://www.mindengross.com)



MERITAS LAW FIRMS WORLDWIDE

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**From:** Craig Lewis <[clewis@RZCDLAW.COM](mailto:clewis@RZCDLAW.COM)>  
**Sent:** Tuesday, May 16, 2023 10:20 AM  
**To:** Rachel Moses <[RMoses@mindengross.com](mailto:RMoses@mindengross.com)>  
**Cc:** Laura Whalen <[LWhalen@RZCDLAW.COM](mailto:LWhalen@RZCDLAW.COM)>  
**Subject:** Bridgenorth Esso  
**Importance:** High

Rachel,

I am out of the office today but I have spoken with the client and he confirms that he will be signing the Forbearance Agreement.

We have asked that he send it to us today but it may not get to you until tomorrow.

We hope that this is satisfactory.

Best regards,

Craig

---

**Craig A. Lewis** | Partner | RZCD Law Firm LLP

Suite 700, 77 City Centre Drive | Mississauga, Ontario L5B 1M5

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---

This is Exhibit "T" referred to  
in the Affidavit of Michael Foster  
Sworn this 30<sup>th</sup>  
day of June, 2023.

  
Rachel Moses (Jul 4, 2023 08:10 EDT)

A Commissioner for Taking Affidavits

Rachel Moses / LSO# 42081V

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**Christine Cavarzan**

---

**From:** Rachel Moses  
**Sent:** Tuesday, June 13, 2023 1:31 PM  
**To:** Craig Lewis; Laura Whalen  
**Cc:** Foster, Michael  
**Subject:** FW: Updated Forbearance Agreement for 266 Esso Gas Station - TIME SENSITIVE

Hi Craig,

With all due respect, your clients are in default under the Credit Agreement and Security and the Bank has been more than reasonable in providing them with notice of i) requirement to repay on maturity (about 3 months ago) and ii) time under the proposed forbearance agreement to repay the indebtedness. The request for further time to December 31, 2023 is unreasonable and unacceptable to the Bank. Specifically:

- On May 16, 2022, a default letter was issued by the Bank to the Borrower in connection with priority payables.
- On October 20, 2022, the Bank advised the Borrower that upon maturity in March 2023, the Term Facility would not be renewed and strongly advised the Borrower to make arrangements with another lender to repay the Term Facility.
- The Borrower failed to repay the Term Facility upon maturity even though the Bank advised five months earlier that it would not renew the Term Facility.
- On April 10, 2023, the Bank made demand on the Borrower and Guarantors for repayment of the Indebtedness and issued to the Borrower an NOI Notice. Demands expired two months ago and the indebtedness has not been repaid.

The Bank is entitled to appoint a Receiver over the assets, undertakings and properties of the Borrower and realize on its security. Your clients have been provided with ample time to consider the terms of the forbearance agreement which they initially agreed to and then sought changes which were accommodated by the Bank. Please be advised that the Bank is prepared to extend the **sign back deadline to noon on Friday, June 16, 2023** but no other changes will be accepted. If your clients do not sign the forbearance agreement, the Bank will be considering enforcement of its rights and remedies.

The Bank reserves all of its rights and remedies.

---

**Rachel Moses** | T: 416.369.4115 | F: 416.864.9223 | [www.mindengross.com](http://www.mindengross.com)



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**From:** Craig Lewis <[clewis@RZCDLAW.COM](mailto:clewis@RZCDLAW.COM)>  
**Sent:** Tuesday, June 13, 2023 10:03 AM  
**To:** Rachel Moses <[RMoses@mindengross.com](mailto:RMoses@mindengross.com)>; Laura Whalen <[LWhalen@RZCDLAW.COM](mailto:LWhalen@RZCDLAW.COM)>  
**Cc:** Foster, Michael <[michael.foster@rbc.com](mailto:michael.foster@rbc.com)>  
**Subject:** RE: Updated Forbearance Agreement for 266 Esso Gas Station - TIME SENSITIVE  
**Importance:** High

Rachel,

Please do not interpret my lack of response for indifference.

I needed to speak with the client. The client is much appreciative of the extension to October 31 but given the vagaries of trying to sell this property and its discussions with the broker, they are wondering whether RBC would be prepared to extend the forbearance until December 31, 2023.

If that extension was granted, I guarantee you that there would be no problem in signing the revised forbearance agreement with that date.

Would you please confer with your client and advise whether that is acceptable?

Yours very truly,

Craig

---

**Craig A. Lewis** | Partner | RZCD Law Firm LLP  
Suite 700, 77 City Centre Drive | Mississauga, Ontario L5B 1M5  
☎ 905.848.6100 x 264 | 📠 905.896.1111 | ✉ [clewis@rzcdlaw.com](mailto:clewis@rzcdlaw.com) | [www.rzcdlaw.com](http://www.rzcdlaw.com) or  
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**From:** Rachel Moses [<mailto:RMoses@mindengross.com>]  
**Sent:** June 12, 2023 4:55 PM  
**To:** Craig Lewis <[clewis@RZCDLAW.COM](mailto:clewis@RZCDLAW.COM)>; Laura Whalen <[LWhalen@RZCDLAW.COM](mailto:LWhalen@RZCDLAW.COM)>  
**Cc:** Foster, Michael <[michael.foster@rbc.com](mailto:michael.foster@rbc.com)>  
**Subject:** FW: Updated Forbearance Agreement for 266 Esso Gas Station - TIME SENSITIVE  
**Importance:** High

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Hi Craig,

I have not heard from you since my email sent last Wednesday with the revised forbearance agreement. As you are aware, the sign back deadline has now expired and there is no forbearance in place. I will be seeking instructions from my client.

In the interim, the Bank reserves all of its rights and remedies.

**Rachel Moses** | T: 416.369.4115 | F: 416.864.9223 | [www.mindengross.com](http://www.mindengross.com)



**From:** Rachel Moses  
**Sent:** Wednesday, June 07, 2023 4:50 PM  
**To:** Craig Lewis <[clewis@RZCDLAW.COM](mailto:clewis@RZCDLAW.COM)>; Laura Whalen <[LWhalen@RZCDLAW.COM](mailto:LWhalen@RZCDLAW.COM)>  
**Cc:** Foster, Michael <[michael.foster@rbc.com](mailto:michael.foster@rbc.com)>  
**Subject:** Updated Forbearance Agreement for 266 Esso Gas Station - TIME SENSITIVE  
**Importance:** High

Hi Craig,

The Bank has made various revisions to the attached forbearance agreement. In particular, but not limited to, the forbearance period will now end on **October 31, 2023**. In addition, note section 11.01 below regarding the sign-back deadline and payment due

**11.0 Acceptance:** The Borrower and Guarantors hereby acknowledge and agree to and with the Bank that on or before **4:00 p.m. on June 12, 2023**, the Bank shall have received: (i) a copy of this Agreement executed by the Borrower and the Guarantor; (ii) originals of the Consent to Judgment and the Consent to Appointment; and (iii) **payment of the amount of \$27,453.36 due under subsection 5.04(b)**. In the event this condition precedent to the Bank agreeing to forbear has not been satisfied, the Bank may elect to rely upon its rights and remedies under the Credit Agreement, the Security, the Guarantee or otherwise.

Please be advised that the Bank continues to reserve all of its rights and remedies.

---

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Si vous recevez ce courriel par erreur, veuillez en aviser l'expéditeur immédiatement, par retour de courriel ou par un autre moyen. Vous avez accepté de recevoir le(s) document(s) ci-joint(s) par voie électronique à l'adresse courriel indiquée ci-dessus; veuillez conserver une copie de cette confirmation pour les fins de référence future.

---

This is Exhibit "U" referred to  
in the Affidavit of Michael Foster  
Sworn this 30<sup>th</sup>  
day of June, 2023.

  
Rachel Moses (Jul 4, 2023 08:10 EDT)

.....  
A Commissioner for Taking Affidavits

Rachel Moses / LSO# 42081V

---



**Christine Cavarzan**

---

**From:** Rachel Moses  
**Sent:** Friday, June 16, 2023 12:06 PM  
**To:** Craig Lewis  
**Cc:** Laura Whalen; Foster, Michael  
**Subject:** FW: 266 : Forbearance Agreement  
**Attachments:** Forbearance Agreement (Signed).PDF

Hi Craig,

Please see attached fully executed forbearance agreement. Please ensure that funds in the amount of \$27,453.36 are wired to us today. We have already provided you with our wire information. Please provide wire confirmation details so we can advise our accounting department of the incoming wire.

---

**Rachel Moses** | T: 416.369.4115 | F: 416.864.9223 | [www.mindengross.com](http://www.mindengross.com)



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---

**From:** Craig Lewis <[clewis@RZCDLAW.COM](mailto:clewis@RZCDLAW.COM)>  
**Sent:** Thursday, June 15, 2023 3:37 PM  
**To:** Rachel Moses <[RMoses@mindengross.com](mailto:RMoses@mindengross.com)>  
**Cc:** Laura Whalen <[LWhalen@RZCDLAW.COM](mailto:LWhalen@RZCDLAW.COM)>  
**Subject:** Forbearance Agreement  
**Importance:** High

[EXTERNAL]

Rachel,

Please see the Forbearance Agreement as signed by our clients attached hereto.

Please be advised our client is making arrangements to fulfil the necessary payment by wiring the funds to your account by the deadline tomorrow.

Best regards,

Craig

---

**Craig A. Lewis** | Partner | RZCD Law Firm LLP

Suite 700, 77 City Centre Drive | Mississauga, Ontario L5B 1M5

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**FORBEARANCE AGREEMENT**

**THIS AGREEMENT** made as of the 6<sup>th</sup> day of June, 2023.

**A M O N G:**

**ROYAL BANK OF CANADA**  
(the “**Bank**” or “**RBC**”)

- and -

**2668144 ONTARIO INC.**  
(the “**Borrower**”)

- and –

**ASMINUR RAHAMAN**  
(“**Asminur**”)

- and –

**SHAKIVE RAHAMAN**  
(“**Shakive**”)

**WHEREAS:**

1. The Bank has made available certain Credit Facilities to the Borrower on the terms and conditions established under the Credit Agreement.
2. The Guarantors have executed and delivered the Guarantee to the Bank.
3. In March 2022, the accounts of the Borrower were transferred to RBC’s Special Loans & Advisory Services Group.
4. On May 16, 2022, the Bank sent a default letter to the Borrower through its counsel regarding the Borrower’s failure to provide certain information regarding potential arrears in HST remittances and source deductions in accordance with the Reporting Requirements established under the Credit Agreement.
5. On October 20, 2022, the Bank advised the Borrower that upon maturity in March 2023, the Term Facility would not be renewed and strongly advised the Borrower to make arrangements with another lender to repay the Term Facility.
6. The Borrower failed to repay the Term Facility upon maturity.

7. On April 10, 2023, the Bank made demand on the Borrower for repayment of the Indebtedness and issued to the Borrower an NOI Notice.
8. On April 10, 2023, the Bank made demand upon the Guarantors in respect of the Indebtedness.
9. The demands and NOI Notice expired and the Indebtedness remains outstanding.
10. The Borrower and Guarantors have requested that the Bank forbear from enforcing its rights and remedies under the Security so as to provide them with the opportunity to obtain alternative financing to repay the Indebtedness.
11. As an inducement to the Bank agreeing to so forbear, the Borrower and Guarantors have agreed to enter into this Agreement and to comply with the terms and provisions contained herein.

**NOW THEREFORE** in consideration of the acknowledgements, confirmations, covenants and agreements contained herein, and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each of the Parties hereto), each of the Parties hereto hereby agree with each other as follows:

#### **ARTICLE 1** **INTERPRETATION**

- 1.01 Definitions:** Unless otherwise specifically defined in this Agreement, all capitalized terms used in this Agreement shall have the meanings ascribed to them in the Credit Agreement. The following terms shall have the following meanings:
- (a) “**Account**” means the bank account of the Borrower maintained at the Bank as account number 08802-1059310;
  - (b) “**Assets**” means all of the personal property, tangible or intangible and undertakings of the Borrower in respect of which the Bank holds Security, including, without limitation, the Real Property;
  - (c) “**BIA**” means the *Bankruptcy and Insolvency Act* (Canada);
  - (d) “**Business Day**” means a day other than a Saturday, Sunday, statutory holiday in the Province of Ontario, or any other day on which the Schedule 1 Canadian Chartered Banks located in the City of Toronto are not open for business during normal banking hours;
  - (e) “**Business Premises**” means the real property municipally known as 989 Ward Street, Bridgenorth, ON K0L 1H0 (the “**Bridgenorth Property**”);
  - (f) “**CEBA**” means the Canada Emergency Business Account program referenced in subsection 2.01(e) herein;

- (g) “**Credit Agreement**” means the credit facilities letter agreement dated June 22, 2021, as amended, revised, restated, replaced and supplemented from time to time, including any Term Facility Renewal Agreement, establishing the Credit Facilities set forth in section 2.01 hereof;
- (h) “**Credit Facilities**” means the credit facilities established by the Bank in favour of the Borrower pursuant to the Credit Agreement;
- (i) “**Environmental Laws**” means any applicable law respecting the natural environment, public or occupational health or safety, and the manufacture, importation, handling, transportation, storage, disposal and treatment of Hazardous Substances that applies to the Real Property and/or the operation of the Borrower’s business thereon;
- (j) “**Environmental Permits**” means all permits, certificates, approvals, consents, registrations and licenses issued or required by any Environmental Laws or any court or governmental authority relating to or required for the ownership of the Real Property and the operation of the Borrower’s business thereon;
- (k) “**Event of Default**” means the occurrence of any one or more of the events set forth in Article 9 of this Agreement;
- (l) “**Guarantee**” means the Guarantee and Postponement of Claim executed and delivered to and in favour of the Bank by the Guarantors listed in **Schedule “B”** attached hereto;
- (m) “**Guarantors**” means Asminur and Shakive;
- (n) “**HASCAP**” means the Highly Affected Sectors Credit Availability Program;
- (o) “**HASCAP Loan**” means a non-revolving term facility established under the HASCAP Loan Agreement in the amount of \$100,000.00 and referenced in subsection 2.01(d) herein;
- (p) “**HASCAP Loan Agreement**” means the credit facilities agreement dated January 24, 2022, as amended, revised, restated, replaced and supplemented from time to time, establishing the HASCAP Loan;
- (q) “**Hazardous Substances**” means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination thereof that may impair the natural environment, injure or damage property or plant or animal life or harm or impair the health of any individual;
- (r) “**Indebtedness**” means the amounts set forth in subsections 2.01(a), (b), (c), (d) and (e) and 2.02 hereof;
- (s) “**NOI Notice**” means a Notice of Intention to Enforce Security issued by the Bank pursuant to section 244(1) of the BIA;

- (t) “**Operating Facility**” means Facility #2 established under the Credit Agreement in the amount of \$65,000.00 and referenced in subsection 2.01(b) herein;
- (u) “**Parties**” means any one or more of the parties referred to in this Agreement, as the context may require;
- (v) “**Prime Rate**” means the annual rate of interest announced by the Bank from time to time as being a reference rate then in effect for determining interest rates on Canadian Dollar commercial loans in Canada;
- (w) “**Priority Payable Authorizations**” shall have the meaning ascribed thereto in subsection 6.01(k);
- (x) “**Priority Payables**” shall have the meaning ascribed thereto in subsection 6.01(k);
- (y) “**Real Property**” means the Bridgenorth Property which is owned by the Borrower;
- (z) “**Security**” means collectively all of the security delivered by the Borrower, or any other person, to the Bank as security for the Indebtedness and obligations of the Borrower to the Bank pursuant to the Credit Agreement, or otherwise, or that may be delivered by the Borrower, or any other person, to the Bank to secure the Indebtedness and obligations of the Borrower to the Bank, including, without limitation, the Security listed in **Schedule “A”** and **Schedule “B”** attached hereto;
- (aa) “**Term Facility**” means Facility #1 established under the Credit Agreement in the amount of \$1,273,852.04 and referenced in subsection 2.01(a) herein; and
- (bb) “**Visa Facility**” means the Visa Facility established under the Credit Agreement up to the maximum amount of \$15,000.00 and referenced in subsection 2.01(c) herein.

## ARTICLE 2 CREDIT FACILITIES

**2.01 Acknowledgement of Indebtedness:** The Borrower and Guarantors acknowledge that, as at June 6, 2023, the Borrower is indebted to the Bank:

- (a) in respect of the Term Facility in the amount of \$1,174,832.61;
- (b) in respect of the Operating Facility in the amount of \$45,138.32;
- (c) in respect of the Visa Facility in the amount of \$14,916.99;
- (d) in respect of the HASCAP Loan in the amount of \$97,531.22; and

(e) in respect of the CEBA loan in the amount of \$60,000.00.

**2.02 Interest, Etc.:** The Borrower and Guarantors acknowledge that interest on the amounts set forth in section 2.01 above, as well as all costs, fees, expenses and other monies incurred by the Bank in connection with the Security, the Indebtedness, including, without limitation, further advances, if any, made by the Bank under the Credit Agreement or hereunder, the collection of the Indebtedness, any appraisals, environmental reports and investigation of the Assets and/or the Real Property and the Security, enforcement of the Security, the negotiation, preparation and enforcement of this Agreement and any amendments hereto, and the disbursements and full amount of all legal and other professional fees incurred by the Bank in connection with all of the same shall be added to and are deemed to form part of the Indebtedness.

### **ARTICLE 3** **ACKNOWLEDGEMENTS**

**3.01 Acknowledgements by the Borrower:** The Borrower hereby confirms and acknowledges to the Bank that:

- (a) each of the foregoing recitals are true and accurate both in substance and in fact;
- (b) the Indebtedness is due and owing to the Bank, and the Borrower has no right or claim of set-off, counterclaim, damages or any similar right or claim against the Bank in connection with the Indebtedness;
- (c) the Borrower is in default of certain covenants and obligations under the Credit Agreement as referenced in the recitals;
- (d) the Bank had the right to demand repayment of the Indebtedness and issue the NOI Notice referred to in the above recitals, and the right, as at the date hereof, to enforce the Security as the 10 day period set out in the NOI Notice has expired;
- (e) the Security is, and any other security delivered by the Borrower, or any other person, to the Bank to secure the Indebtedness after the date hereof will be in full force and effect, constitute legal, valid and binding obligations of the Borrower, or the person granting such Security, enforceable against the Borrower, and the person granting such Security, and the Borrower hereby waives and agrees not to assert or cause to be asserted on its behalf, and is hereby estopped from asserting or causing to be asserted on its behalf, any defences or rights with respect to the legal effect of the Security or the legality, validity or binding effect of the obligations of the Borrower thereunder and the enforceability of same;
- (f) except as provided for in this Agreement, the Bank (either by itself or through its employees or agents) has made no promises, nor has it taken any action or

omitted to take any action which would constitute a waiver of its right to take any enforcement action in connection with the enforcement of the Security, or which would estop it from so doing and that no statement, representation, promise, act or omission by the Bank or its employees or agents shall create such a waiver or estoppel unless the Bank executes and delivers to the Borrower a written waiver of any such rights; and

- (g) the Borrower has been provided with a reasonable opportunity to seek legal advice with respect to the execution and delivery of this Agreement and has either done so or has decided to execute and deliver the same to the Bank without obtaining such legal advice.

**3.02 Acknowledgements by the Guarantors:** The Guarantors hereby acknowledges and confirms that:

- (a) each of the foregoing recitals are true and accurate both in substance and in fact;
- (b) the Indebtedness is due and owing to the Bank, and the Borrower has no right or claim of set-off, counterclaim, damages or any similar right or claim against the Bank in connection with the Indebtedness;
- (c) the Bank had the right to demand repayment of the Indebtedness, and issue the NOI Notice referred to in the above recitals, and the right, as at the date hereof, to enforce the Security as the 10 day period set out in the NOI Notice has expired;
- (d) the Security is, and any other security delivered by the Borrower, or any other person, to the Bank to secure the Indebtedness after the date hereof, will be in full force and effect, constitute legal, valid and binding obligations of the Borrower, or the person granting such Security, enforceable against the Borrower, and the person granting such Security, and the Guarantors hereby waives and agrees not to assert or cause to be asserted on her behalf and is hereby estopped from asserting or causing to be asserted on her behalf, any defences or rights in relation to any matter, cause or thing whatsoever existing to the date hereof with respect to the legal effect of the Security or the legality, validity or binding effect of the obligations of the Borrower thereunder and the enforceability of same;
- (e) there is no dispute respecting the liability of the Guarantors in connection with the Indebtedness and the obligations of the Guarantors to repay the Indebtedness according to the provisions of the Guarantee delivered by the Guarantors;
- (f) the Guarantee delivered by the Guarantors is in full force and effect, constitutes legal, valid and binding obligations of the Guarantors, is enforceable against the Guarantors and the Guarantors hereby waive and agree not to assert or cause



to be asserted on their behalf and is hereby estopped from asserting or causing to be asserted on their behalf, any defences or rights with respect to the legal effect of the Guarantee or the legality, validity or binding effect of the obligations of the Guarantors thereunder and the enforceability of same;

- (g) they consent to the Borrower entering into this Agreement;
- (h) notwithstanding the terms of the Guarantee, the Security, the Credit Agreement, the HASCAP Loan Agreement, this Agreement, or of any other agreement, whether written or oral, between the Bank and the Guarantors, the Bank shall be entitled to rely upon the Guarantee in respect of any amounts comprising the Indebtedness;
- (i) except as provided in this Agreement, the Bank (either by itself or through its employees or agents) has made no promises, nor has it taken any action or omitted to take any action which would constitute a waiver of its right to take any enforcement action in connection with the enforcement of the Security, or which would estop it from so doing and that no statement, representation, promise, act or omission by the Bank or its employees or agents shall create such a waiver or estoppel unless the Bank executes and delivers to the Borrower or Guarantors a written waiver of any such rights following the date hereof; and
- (j) the Guarantors have been provided with a reasonable opportunity to seek legal advice with respect to the execution and delivery of this Agreement and has either done so or has decided to execute and deliver the same to the Bank without obtaining such legal advice.

### **3.03 Tolling Provisions:**

- (a) As of the date hereof and continuing until the termination of the Forbearance Period (defined herein) and thereafter until the termination of the tolling arrangements hereof in the manner provided for at paragraph 3.03(b) and whether or not demand for payment or an NOI Notice(s) have previously been delivered by the Bank in respect of the Indebtedness, the Bank, the Borrower and the Guarantors hereby agree to toll and suspend the running of the applicable statutes of limitations, laches or other doctrines related to the passage of time in relation to the Indebtedness, the Security, and any entitlements arising from the Indebtedness or the Security and any other related matters, and each of the parties confirm that this Agreement is intended to be an agreement to suspend or extend the basic limitation period, provided by section 4 of the *Limitations Act*, 2002 (Ontario) as well as the ultimate limitation period provided by section 15 of the *Limitations Act*, 2002 (Ontario) in accordance with the provisions of section 22(2) of the *Limitations Act*, 2002 (Ontario) and as a business agreement in accordance with the provisions of section 22(5) of the *Limitations Act*, 2002 (Ontario) and any contractual time limitation on the commencement of proceedings, any claims or defences based

upon such applicable statute of limitations, contractual limitations, or any time related doctrine including waiver, estoppel or laches; and

- (b) the tolling provisions of this Agreement will terminate upon any party providing the others with 45 days written notice of an intention to terminate the tolling provisions hereof, and upon the expiry of such 45 day notice, and any time provided for under the statutes of limitations, laches, or any other doctrine related to the passage of time in relation to the Indebtedness, the Security or any entitlements arising from the Indebtedness or the Security and any other related matters, will recommence running as of the effective date of such notice, and for greater certainty the time during which the limitation period is suspended pursuant to the tolling provisions of this Agreement shall not be included in the computation of any limitation period.

#### **ARTICLE 4** **WAIVER AND RELEASE**

- 4.01 Waiver and Release:** The Borrower and Guarantors acknowledge and agree that, to the date hereof, the Bank's administration of the Credit Facilities, and its conduct and actions in dealing with the Borrower and Guarantors, have been fair and reasonable and hereby waive and agree not to assert or cause to be asserted on behalf of any of them, and are hereby estopped from asserting or causing to be asserted on behalf of any of them, any defences, rights or claims on any grounds whatsoever with respect to such administration, conduct, action and dealings, and hereby absolutely, unconditionally and irrevocably release and remise the Bank (and its present and former affiliates, subsidiaries, divisions, predecessors, directors, officers, employees, agents and other representatives and their successors and assigns) of and from any and all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any other claims, counterclaims, defences, rights of set-off, demands and liabilities of any nature and kind whatsoever, known or unknown, both at law and in equity that the Borrower or Guarantors or any of their successors, assigns, or other legal representatives may now or hereafter have against the Bank. The Borrower and Guarantors hereby waive any and all rights they may have to assess any of the legal fees previously paid or payable by the Bank to its solicitors in connection with or in any way related to the parties hereto whether such rights of assessment arises pursuant to the *Solicitors Act* (Ontario) or under any other law or statute. Further, in executing and delivering this Agreement, the Borrower and Guarantors acknowledge and agree that they are acting freely and without duress and that this release may be pleaded as a full and complete defence and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of that release and that no fact, event, circumstance, evidence or transaction which could now be asserted or which may later be discovered will affect in any manner the final, absolute and unconditional nature of this release.

**ARTICLE 5**  
**FORBEARANCE**

**5.01 Implementation of Plan:** The Borrower and Guarantors hereby covenant and agree to and with the Bank that: (i) they shall, and each shall ensure that the other, honours and fulfils the terms and provisions set forth in this Article 5; and (ii) the Indebtedness shall be repaid by no later than October 31, 2023.

**5.02 Forbearance Period:** Subject to the terms and conditions of this Agreement, the Bank agrees that it will forbear from the exercise of its rights and remedies against the Borrower and Guarantors in respect of the Indebtedness for the period of time ("**Forbearance Period**") commencing with the execution and delivery of this Agreement until the earlier of:

- (a) October 31, 2023; or
- (b) the date that the Bank becomes aware of an Event of Default that occurred prior to the date hereof that was not disclosed to it by the Borrower or Guarantors; or
- (c) the occurrence of an Event of Default following the date hereof.

The Borrower and Guarantors acknowledge that the Bank shall have no obligation to continue to forbear after the expiration of the Forbearance Period, and that the Indebtedness shall become due and payable on October 31, 2023.

**5.03 Amendments to the Credit Agreement:** The Borrower and Guarantors acknowledge that, effective as at March 21, 2023, the Credit Agreement is deemed to have been amended as follows:

- a) Under the "Credit Facilities" section, the repayment date for the Term Facility is hereby extended to October 31, 2023.

**5.04 Servicing and Reduction of the Indebtedness:** Notwithstanding any other provision of this Agreement, the Borrower shall honour all payment obligations in accordance with the provisions of the Credit Agreement and the HASCAP Loan Agreement and cause the Indebtedness to be permanently reduced as follows:

- (a) by the proceeds from all sales, transfers or other disposition of the Assets and/or Real Property, or any portion thereof, outside of the ordinary course of the Borrower's business, shall be paid directly to the Bank to permanently reduce the Indebtedness, in such manner as it determines in its sole and absolute discretion;
- (b) contemporaneously with its execution of this Agreement, the Borrower shall bring the Term Facility current, specifically, by making the bi-weekly payments of \$4,575.56 due on April 3, 2023 and bi-weekly thereafter which remain

outstanding since maturity of the Term Facility on March 21, 2023 in the amount of \$27,453.36 due at the time of its execution of this Agreement; and

- (c) the Borrower shall, and the Guarantors shall cause the Borrower to, continue to make all monthly payments required under the Credit Agreement and/or the HASCAP Loan Agreement, including monthly payments of principal and interest in respect of the Term Facility.

## ARTICLE 6 COVENANTS

**6.01** The Borrower and Guarantors hereby jointly and severally covenant and agree with the Bank as follows:

- (a) **Maintain Corporate Status:** The Borrower shall maintain, and the Guarantors shall ensure that the Borrower maintains its corporate existence as a valid and subsisting corporate entity;
- (b) **No Additional Shares:** The Borrower shall not, and the Guarantors shall ensure that the Borrower does not, issue any additional shares from treasury, or permit any of its shares to be transferred or redeemed except with the prior written consent of the Bank;
- (c) **No Corporate Changes:** The Borrower shall not, and the Guarantors shall ensure that the Borrower does not merge, amalgamate or consolidate, with any other corporation except with the prior written consent of the Bank;
- (d) **No Further Obligations:** The Borrower shall not, and the Guarantors shall ensure that the Borrower does not, incur or become liable for any borrowed money, or for the purchase price of assets, obligations and leases, obligations under letters of credit or guarantees or indemnities, obligations given pursuant to bankers' acceptances or indemnities in connection therewith, or any contingent obligation, including, without limitation, guarantees, endorsements or bills of exchange, obligations to purchase assets and obligations to make advances or otherwise provide financial assistance to any other entity without the prior written consent of the Bank, except any of the same which is in the ordinary course of the business of the Borrower, provided, however, that nothing herein shall preclude the Borrower from incurring and becoming liable for borrowed money provided the same is used by the Borrower to repay the Indebtedness in accordance with and pursuant to this Agreement;
- (e) **Notice of Proceedings:** The Borrower shall deliver to the Bank, and the Guarantors shall ensure that the Borrower delivers to the Bank, prompt notice of any dispute, litigation, arbitration or administrative proceedings affecting any of the Assets or the Real Property that is before or of any court, arbitration, tribunal or governmental authority;

- (f) **No Agreements:** Except as expressly permitted herein, the Borrower shall not, and the Guarantors shall ensure that the Borrower, does not, enter into any agreement or employ any strategy, either directly or indirectly, which would affect the ranking of the Security, encumber, restrict or otherwise impair the Assets and/or the Real Property or the marketability thereof and the Borrower shall work diligently, toward the overall implementation of this Agreement;
- (g) **No Further Security:** The Borrower shall not, and the Guarantors shall ensure that the Borrower does not, grant, execute or deliver any security interests, mortgages, hypothecs, liens, charges, pledges or other encumbrances whatsoever to any person, firm, corporation or other legal entity without the prior written consent of the Bank; however, nothing herein shall preclude the Borrower from granting security against the Assets and/or the Real Property provided the same is delivered to secure borrowed money that is used by the Borrower to repay the Indebtedness in accordance with and pursuant to this Agreement;
- (h) **Payment of Bonuses, Etc.:** The Borrower shall not, and the Guarantors shall ensure that the Borrower does not, without the prior written consent of the Bank, incur any capital expenditures, or make any payments, whether directly or indirectly, to any of their shareholders or any other persons, whether by way of dividends, capital dividends, redemption or retraction of shares, bonuses or otherwise;
- (i) **No Repayment to Related Persons:** Until the Indebtedness is repaid in full, there shall be no repayment of any amounts owing by the Borrower to any “related person” as such term is defined under the BIA, without the prior written consent of the Bank;
- (j) **Notice of Event of Default:** The Borrower shall give to the Bank and the Guarantors shall ensure that the Borrower gives to the Bank, prompt notice of any Event of Default or any event which, with notice or lapse of time or both, would constitute an Event of Default;
- (k) **Statutory Remittances:** The Borrower shall, and the Guarantors shall cause the Borrower to, keep current all amounts owing by the Borrower to the Crown, including, without limitation, amounts owing under the *Income Tax Act* (Canada), the *Excise Tax Act* (Canada), the *Retail Sales Tax Act* (Ontario), the *Municipal Act* (Ontario) and any other federal, provincial or municipal laws which could give rise to a claim against the Bank in priority to the Security held by the Bank against the Assets (collectively, the “**Priority Payables**”). The Borrower hereby authorizes and directs any entity having information in respect of the Priority Payables to release such information to the Bank or its agents to assist the Bank in evaluating the existence and extent of any indebtedness owing by the Borrower to such entity and the Borrower shall at the request of the Bank execute and deliver such authorizations and consents as the Bank may require in respect of same (the “**Priority Payable Authorizations**”);

- (l) **Payment of Priority Payables:** The Borrower shall provide to the Bank, and the Guarantors shall cause the Borrower to provide to the Bank, evidence satisfactory to the Bank, in its sole and absolute discretion (including, among other things, RT and RP and reports of the Borrower) that all the Priority Payables have been paid and are current which reports are due i) on June 19, 2023 for the period ending March 31, 2023, ii) on July 14, 2023 for the period ending June 30, 2023 and iii) at the time of repayment of the Indebtedness;
- (m) **Property Taxes:** Without limiting the covenants contained in section 6.01(k), the Borrower shall keep current all remittances owing by it in respect of property taxes, related to the Real Property current as of the date of execution of this Agreement and shall ensure that all remittances owing by it in respect of property taxes related to the Real Property remain current;
- (n) **Equipment Suppliers:** The Borrower shall, and the Guarantors shall cause the Borrower to, keep current all of its obligations to third parties that have or may be granted a lien, charge or security interest in any equipment forming part of the Assets or the Real Property;
- (o) **No Movement of Assets:** The Assets shall not be moved or otherwise relocated from the Business Premises without the prior written consent of the Bank;
- (p) **Compliance:** The Borrower and the Guarantors shall comply, and each shall ensure that the other complies in all respects with all terms and provisions of this Agreement, the Credit Agreement, the Security and the Guarantee;
- (q) **Environmental Compliance:** The Borrower shall, and the Guarantors shall cause the Borrower to, comply with all applicable Environmental Laws respecting the ownership and operation of their respective businesses and keep in good standing all Environmental Permits required to operate its business;
- (r) **Environmental Assessment Reports and Appraisal:** The Borrower shall deliver to the Bank, and the Guarantors shall cause the Borrower to deliver to the Bank: (i) its most recent and up to date Environmental Assessment Phase I and II Reports in connection with the Real Property, and (ii) its most recent and up to date appraisal of the Real Property and/or the Borrower shall consent to the Bank obtaining, at the Bank's discretion, a current appraisal of the Real Property, and any costs associated with such appraisal shall form part of the Indebtedness;
- (s) **Progress and Status Reports:** The Borrower shall deliver to the Bank, and the Guarantors shall cause the Borrower to deliver to the Bank: (i) a firm and binding commitment letter, loan agreement, or similar documentation from another financial institution in an amount sufficient to repay all Indebtedness to the Bank on or before October 31, 2023, and (ii) status reports, by way of email sent directly to the Bank, on the 30<sup>th</sup> day of each month commencing on June

30, 2023 on its efforts to sell and or refinance the Real Property and/or the business of the Borrower;

- (t) **Financial Reporting:** The Borrower shall honour, and the Guarantors shall cause the Borrower to honour, all financial reporting covenants contained in this Agreement and the Credit Agreement and the HASCAP Loan Agreement;
- (u) **Insurance:** The Borrower shall, and the Guarantors shall ensure that the Borrower maintains current insurance evidencing fire and other perils coverage on the Real Property. The Borrower shall deliver to the Bank, and the Guarantors shall cause the Borrower to deliver to the Bank: (i) evidence that insurance coverage on the Real Property is in good standing and (ii) evidence showing that the Bank is 1<sup>st</sup> loss payee under its insurance coverage on the Real Property by no later than June 19, 2023.
- (v) **Bank Account:** The Borrower and Guarantors shall ensure that all monies generated by the Borrower in the course of its business operations are deposited into the Account or any other account maintained by the Borrower at the Bank and the Borrower shall only maintain accounts at the Bank. The Account shall be closed effective on the date of repayment of the Indebtedness;
- (w) **Account Debit Authorization:** The Borrower hereby authorizes and directs the Bank to automatically debit, by mechanical, electronic or manual means, any account in the name of the Borrower for all amounts payable under this Agreement;
- (x) **Cooperation On Enforcement:** Should an Event of Default occur and the Bank exercises its rights and remedies under this Agreement, the Security, the Guarantee, or the Credit Agreement, or the HASCAP Loan Agreement, the Borrower shall assist, and the Guarantors shall ensure that the Borrower assists, the Bank in the exercise of such rights and remedies, including, without limitation, assisting the Bank in securing possession of the Assets and/or the Real Property and providing such assistance as is requested in the sale of same;
- (y) **Consent To Judgment:** The Guarantors shall, contemporaneously with the execution of this Agreement, execute and deliver to and in favour of the Bank a Consent to Judgment in the form attached hereto as **Schedule "C"** (the "**Consent to Judgment**"), provided that the Bank shall not be entitled to rely upon the Consent to Judgment until the occurrence of an Event of Default; and
- (z) **Consent To Appointment:** The Borrower shall, contemporaneously with the execution of this Agreement, execute and deliver to and in favour of the Bank a Consent to Court-Appointed Receiver in the form attached hereto as **Schedule "D"** (the "**Consent to Appointment**"), provided that the Bank shall not be entitled to rely upon the Consent to Court-Appointed Receiver until the occurrence of an Event of Default.

**ARTICLE 7**  
**REPRESENTATIONS AND WARRANTIES**

- 7.01 Representations and Warranties:** The Borrower and the Guarantors represent and warrant to and in favour of the Bank and acknowledge that the Bank is relying upon such representations and warranties in entering into this Agreement as follows:
- (a) The Borrower is a corporation duly incorporated, organized and subsisting under the laws of the Province of Ontario;
  - (b) The Borrower has all necessary power and authority and is duly qualified and holds all necessary licenses and/or registrations to carry on its business as now conducted and to enter into and perform its obligations under this Agreement;
  - (c) the execution, delivery and performance of this Agreement by the Borrower and the performance of its obligations hereunder:
    - (a) have been duly authorized by all necessary corporate actions;
    - (b) do not conflict with or result in a breach or violation of or constitute a default under:
      - A. the constating documents or by-laws of the Borrower;
      - B. any law, rule, regulation, order, judgment, writ, injunction or decree applicable to the Borrower; and
      - C. any commitment, agreement or other instrument to which the Borrower is now a party or otherwise bound; and
    - (c) does not require the consent or approval of any third party;
  - (d) there are no proceedings nor any circumstances or material facts which could give rise to any proceedings, in which it is alleged on reasonable grounds that the Borrower or its predecessors are potentially responsible for clean-up or remediation of lands contaminated with Hazardous Substances or for any other remedial or corrective action under any Environmental Laws;
  - (e) there are no circumstances, to the knowledge of the Borrower, that could reasonably be expected to give rise to any civil or criminal proceedings or liability regarding (i) the release or presence of a Hazardous Substance on the Real Property, or (ii) the violation of any Environmental Laws by the Borrower, its respective employees, agents or others for which the Borrower is responsible in law;



- (f) all Hazardous Substances disposed of, treated or stored on the Real Property have been disposed of, treated and stored in compliance in all material respects with all Environmental Laws;
- (g) all amounts owing by the Borrower under the *Income Tax Act* (Canada), *Excise Tax Act* (Canada), *Retail Sales Tax Act* (Ontario), *Municipal Sales Act* (Ontario) and any other federal, provincial or municipal laws which could give rise to a claim against the Bank in priority to the Security, are current, including, without limitation, the Real Property, source deductions and harmonized sales tax and there are no amounts owing to Canada Revenue Agency, the Province of Ontario, or any other federal or provincial government agency or body that may give rise to the issuance of a third party requirement to pay or any similar such demand notice;
- (h) there is no matter, fact or event which is known to the Borrower or Guarantors that has not been disclosed to the Bank which constitutes an Event of Default or is likely to have a material adverse effect on the performance of their respective obligations under this Agreement, or have a material adverse effect on the Assets and/or the Real Property or the operations of the Borrower and the Borrower has conducted such investigations as it considers reasonably necessary to make this representation and warranty; and
- (i) no proceeding or action has been taken or commenced by any person against the Borrower in respect of any amounts owing by the Borrower to any person.

**7.02 Non-Merger:** The representations and warranties set forth herein shall survive the execution and delivery of this Agreement and shall continue in full force and effect until the repayment of the Indebtedness.

## **ARTICLE 8** **SECURITY**

**8.01 Security:** The Security shall continue to be held by the Bank hereunder.

**8.02 Cross Collateralization:** All Security held by the Bank shall be held as security for all Indebtedness. For greater certainty, the Borrower and Guarantors hereby acknowledge and agree that upon the occurrence of an Event of Default, the Bank shall be entitled to enforce its rights under the Security, or any part thereof, against the Assets and/or the Real Property, or any portion thereof, to the extent of the Indebtedness.

**8.03 Access to the Assets and/or the Real Property:** The Borrower shall provide, and the Guarantors shall ensure that the Borrower provides, access to the Bank or its agents during normal business hours, to enter the Business Premises or any property where the Assets are located to inspect the Assets and/or the Real Property or to have appraisals made of the Assets and/or the Real Property, or to conduct environmental

investigations in respect of the Real Property, and to examine and make copies of all books and records relating thereto, including any books and records required by the Bank, its representatives or agents to confirm, among other things, that the Priority Payables are current. All costs in connection with such appraisals, environmental reports, testing and enquires shall form and are hereby deemed to form part of the Indebtedness.

**ARTICLE 9**  
**DEFAULT**

**9.01 Events of Default:** Each of the following events shall constitute an Event of Default under this Agreement:

- (a) any default or failure in the observance or performance of any payment, covenant, obligation or agreement contained herein and/or under the Security and/or under the Credit Agreement by the Borrower and/or the Guarantor;
- (b) the occurrence of any Event of Default under the Security and/or under the Credit Agreement;
- (c) any representation, warranty or statement contained herein and/or in the Security and/or in the Credit Agreement which is or proves to be untrue or incorrect;
- (d) the receipt by the Bank of a demand or requirement for payment from Canada Revenue Agency, the Province of Ontario, or any other federal, provincial or municipal governmental agency or body, as a result of arrears or monies owing by the Borrower including, without limitation, on account of employee source deductions, harmonized sales tax, corporate tax, employee health tax, employee vacation pay, provincial pension contributions or municipal property taxes;
- (e) the Bank determining, in its sole and absolute discretion, that a material adverse change has occurred in the financial condition, ownership structure or composition or operation of the Borrower;
- (f) the Borrower taking any action or commencing any proceeding or any action or proceeding being taken or commenced by another person or persons against the Borrower in respect of the liquidation, dissolution or winding-up of the Borrower, including, without limitation, any action or proceeding under the *Winding Up and Restructuring Act*, the *Business Corporations Act* (Ontario), or other similar legislation whether now or hereinafter in effect;
- (g) the Borrower taking any action or commencing any proceeding or any action or proceeding being taken or commenced by another person or persons against the Borrower relating to the reorganization, readjustment, compromise or settlement of the debts owed by the Borrower to its respective creditors where

such reorganization, readjustment, compromise or settlement shall affect a substantial portion of the Assets and/or Real Property, including, without limitation, the filing of a notice of intention to make a proposal or the filing of a proposal pursuant to the provisions of the BIA, the making of an order under the *Companies Creditors Arrangements Act (Canada)* or the commencement of any similar action or proceeding by the Borrower;

- (h) the Borrower committing or threatening to commit any act of bankruptcy pursuant to or set out under the provisions of the BIA;
- (i) the filing of a bankruptcy application for a bankruptcy order against the Borrower pursuant to the provisions of the BIA;
- (j) any execution, sequestration or other process of any court or other tribunal becoming enforceable against the Borrower or a distress or analogous action or proceeding being taken, commenced or issued against the Borrower or levied upon or in respect of the Assets and/or the Real Property or any part thereof, or any lien, trust claim or any other right or entitlement against or in respect of the Assets and/or the Real Property or any part thereof becoming effective, including, without limitation, a warrant of distress of any rent in respect of any premises occupied by the Borrower, including, without limitation, the Real Property or any premises in or upon which the Assets or any part thereof may at any time be situate; and
- (k) an interim receiver, receiver, receiver and manager, agent, liquidator or other similar administrator being appointed in respect of the Assets and/or the Real Property, or any part thereof, or the taking by a secured party, lien claimant, other encumbrancer, judgment creditor or a person asserting similar rights of possession to the Assets and/or Real Property or any part thereof.

**9.02 Waiver:** The Bank may waive in writing any Event of Default, in its sole and absolute discretion, but no such waiver shall constitute a waiver of any other Event of Default.

## **ARTICLE 10** **REMEDIES ON DEFAULT**

**10.01 Enforcement:** Upon the occurrence of an Event of Default:

- (a) the Bank may immediately terminate its agreement to forbear as set forth in section 5.02 hereof and shall be entitled to enforce all of its rights and remedies against the Borrower and the Guarantors;
- (b) the Borrower shall assist, and the Guarantors covenants they will ensure that the Borrower assists, the Bank in the exercise of its rights and remedies, including, without limitation, assisting the Bank in securing possession of the Assets and/or Real Property, or any part thereof, and providing such assistance as is requested in the sale of same;

- (c) the Borrower and the Guarantors hereby consent to the Bank immediately enforcing its rights under this Agreement, the Credit Agreement and the Security, including, without limitation, the appointment of an interim receiver, receiver or receiver and manager, by way of private appointment or on an application to the Superior Court of Justice (Ontario) (Commercial List), against the Assets and/or the Real Property;
- (d) the Borrower and the Guarantors shall, immediately upon receipt from the Bank or its counsel of a Notice of Disposition pursuant to the provisions of subsection 63(4) of the *Personal Property Security Act* (Ontario), consent to the immediate disposition of the Assets by the Bank and should the Borrower and/or the Guarantors or any one of them, fail to execute such consent when requested to do so by the Bank, the agreement of the Borrower and/or the Guarantors to do so herein shall be deemed to constitute the irrevocable consent of the Borrower and the Guarantors to the immediate disposition of the Assets by the Bank;
- (e) the Borrower shall immediately upon the filing by the Bank of a bankruptcy application for a bankruptcy order against the Borrower forthwith consent to an immediate bankruptcy order being made against it and should the Borrower fail to execute such consent when requested to do so by the Bank, the consent of the Borrower to do so herein shall be deemed to constitute the irrevocable consent to such bankruptcy order;
- (f) the Bank shall immediately issue an action or application in the Superior Court of Justice (Ontario) (Commercial List) in order to file and enforce the Consent to Judgment referenced in subsection 6.01(y); and
- (g) the Bank shall immediately issue an action or application in the Superior Court of Justice (Ontario) (Commercial List) in order to file and enforce the Consent to Appointment referenced in subsection 6.01(z).

**ARTICLE 11**  
**GENERAL**

- 11.01 Entire Agreement:** This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements or discussions between the Parties whether written or oral.
- 11.02 Headings:** The headings in this Agreement are provided for convenience of reference only and should not be considered to form part hereof for the purpose of interpreting or construing or applying this Agreement and such headings shall not define, limit, extend or describe the scope of this Agreement or any of its terms and conditions.
- 11.03 Schedules:** Schedule "A", "B", "C" and "D" attached hereto form an integral part of this Agreement.

**11.04 Severability:** If any provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and shall remain valid and enforceable.

**11.05 Notices:** Any notice required or permitted to be given hereunder or any tender or delivery of documents may be given in writing by personal delivery, facsimile or other electronic transmission to the Borrower and the Bank at the following addresses:

**To the Borrower/Guarantors at:**

**Attn: Asminur Rahaman and Shakive Rahaman**

989 Ward Street  
Bridgenorth, ON K0L 1H0  
Email: [bridgenorth989@gmail.com](mailto:bridgenorth989@gmail.com)

**RZDC law Firm**

77 City Centre Drive, Suite 700  
Mississauga, ON L5B 1M5  
Attn: Craig A. Lewis  
Tel: 905-848-6100 Ext. 264  
Email: [clewis@rzcdlaw.com](mailto:clewis@rzcdlaw.com)

**with a courtesy copy to:**

**To the Bank at:**

20 King Street West, 2<sup>nd</sup> Floor  
Toronto, ON M5H 1C4  
Attn: Michael Foster  
Tel: 416-346-1389  
Email: [michael.foster@rbc.com](mailto:michael.foster@rbc.com)

**with a courtesy copy to:**

**Minden Gross LLP**

145 King Street West, Suite 2200  
Toronto, ON M5H 4G2  
Attn: Rachel Moses  
Fax: 416-864-9223  
Email: [rmoses@mindengross.com](mailto:rmoses@mindengross.com)

The date of receipt of such notice shall be the date of the actual delivery to the address specified if delivered or the date of actual transmission to the telecopier number (if telecopied) or the date of actual electronic transmission, unless such date is not a

Business Day, in which event the date of receipt shall be the next Business Day immediately following the date of such delivery or transmission.

- 11.06 No Prejudice:** The provisions hereof shall operate and apply without prejudice to any rights which the Bank may now or in the future have in respect of the Indebtedness, or other liabilities or obligations, whether direct or indirect, matured or not, contingent or otherwise, of the Borrower to the Bank.
- 11.07 Successors and Assigns:** This Agreement may be assigned by the Bank in its sole and absolute discretion, but shall not be assigned by the Borrower or any Guarantors unless authorized by the Bank in writing and this Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective successors, permitted assigns, heirs and legal personal representatives (as applicable).
- 11.08 Timely Performance:** It is intended by all Parties to this Agreement that all obligations hereunder will be performed strictly in accordance with the provisions of this Agreement and in a timely manner, with time being of the essence hereof. Accordingly, should default occur in the timely performance of any of the obligations by the Borrower for any reason, whether within or beyond its control, the Bank shall upon the occurrence of such default be entitled to rely strictly on its rights and remedies as set forth in this Agreement and under the Credit Agreement and the Security.
- 11.09 Relationship of Parties:** Nothing in this Agreement shall be construed to change the relationship existing between the Borrower and the Bank to one other than the debtor/creditor relationship as it now exists. This Agreement is not entered into, nor shall it create, a partnership, joint venture or agency relationship between the Bank and any of the Parties hereto.
- 11.10 Counterparts and Electronic Execution:** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and all of which taken together shall be deemed to constitute one and the same agreement. A facsimile or other electronic transmission received by each Party of the other Parties signatures shall serve to confirm the execution thereof by each such party.
- 11.11 Governing Law:** This Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada as are applicable therein.
- 11.12 No Amendment:** This Agreement shall not be amended unless such amendments are in writing and signed by all Parties.
- 11.13 Further Assurances:** The Borrower and the Guarantors hereby agree to sign or execute all such other documents and do such other things as may be necessary or desirable for more completely and effectively carrying out the terms and intentions of this Agreement.

**11.14 Acceptance:** The Borrower and Guarantors hereby acknowledge and agree to and with the Bank that on or before 4:00 p.m. on June 12, 2023, the Bank shall have received: (i) a copy of this Agreement executed by the Borrower and the Guarantor; (ii) originals of the Consent to Judgment and the Consent to Appointment; and (iii) payment of the amount of \$27,453.36 due under subsection 5.04(b). In the event this condition precedent to the Bank agreeing to forbear has not been satisfied, the Bank may elect to rely upon its rights and remedies under the Credit Agreement, the Security, the Guarantee or otherwise.

**[REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF the parties hereto have duly executed this Agreement with effect as and from the date first written above.

ROYAL BANK OF CANADA

Per: [Signature]  
Name: Michael Foster  
Title: Senior Manager, Special Loans and Advisory Services

I Have Authority to Bind the Bank

2668144 ONTARIO INC.

Per: [Signature]  
Name: ShakiveRahaman  
Title:

Per: [Signature]  
Name: Asminur Rahaman  
Title:

I/We Have Authority to Bind the Corporation

[Signature]  
shakive rahaman (Jun 15, 2023 12:03 EDT)

WITNESS

[Signature]  
Asminur rahaman (Jun 15, 2023 15:22 EDT)

ASMINUR RAHAMAN

[Signature]  
Asminur rahaman (Jun 15, 2023 15:22 EDT)

WITNESS

[Signature]  
shakive rahaman (Jun 15, 2023 12:03 EDT)

SHAKIVE RAHAMAN



**SCHEDULE "A"**  
**SECURITY**

1. General security agreement (Form 924) dated February 11, 2019, executed and delivered to and in favour of Royal Bank of Canada by 2668144 Ontario Inc.
2. Collateral mortgage in the amount of \$1,445,000.00 registered against 989 Ward Street, Bridgenorth, Ontario, as instrument number PE306608, on March 5, 2019.

**SCHEDULE "B"**  
**GUARANTEE AND POSTPONEMENT OF CLAIM**

1. Guarantee and Postponement of Claim (Form 812) in the amount of \$1,445,000.00 dated February 11, 2019, executed to and in favour of the Bank by Asminur Rahaman and Shakive Rahaman.

**SCHEDULE "C"**

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**ROYAL BANK OF CANADA**

Plaintiff

and

**2668144 ONTARIO INC., ASMINUR RAHAMAN and SHAKIVE RAHAMAN**

Defendants

**CONSENT**

The undersigned consent to Judgment, in substantially the same form as that attached hereto as **Schedule "A"**, being entered against him. The undersigned also certify that the Judgment being sought herein does not affect the rights of any person under disability.

DATED this 15<sup>th</sup> day of <sup>June</sup>~~April~~, 2023.

shakive rahaman (Jun 15, 2023 12:03 EDT)  
Witness

Asminur rahaman (Jun 15, 2023 15:22 EDT)  
**ASMINUR RAHAMAN**

Asminur rahaman (Jun 15, 2023 15:22 EDT)  
Witness

shakive rahaman (Jun 15, 2023 12:03 EDT)  
**SHAKIVE RAHAMAN**

sr

**2668144 ONTARIO INC.**

shakive rahaman (Jun 15, 2023 12:03 EDT)  
Per: ~  
Name: ~  
Title:  
I/We Have Authority to Bind the Corporation

## Schedule "A"

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE	)	DAY, THE	DAY
	)		
JUSTICE	)	OF	202

BETWEEN:

**ROYAL BANK OF CANADA**

Plaintiff

and

**2668144 ONTARIO INC., ASMINUR RAHAMAN and SHAKIVE RAHAMAN**

Defendants

**JUDGMENT**

**THIS MOTION**, made by the plaintiff, Royal Bank of Canada ("**RBC**"), without notice, for consent judgment against the defendants, Asminur Rahaman ("**Asminur**") and Shakive Rahaman ("**Shakive**"), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the notice of motion, including an affidavit of verification, and the consent of the parties, filed,

1. **IT IS ORDERED AND ADJUDGED** that the defendants, Asminur and

Shakive, shall pay to the plaintiff, RBC, the sum of \$ \_\_\_\_\_ in respect of his guarantee limited to the principal amount of \$1,445,000.00 and dated February 11, 2019, in respect of the debts, liabilities and obligations of 2668144 Ontario Inc.

2. **IT IS ORDERED AND ADJUDGED** that the defendants, Asminur and Shakive, shall pay to the plaintiff, RBC, the sum of \$ \_\_\_\_\_ in respect of costs incurred by the plaintiff, RBC, in respect of this motion.

**THIS JUDGMENT BEARS INTEREST** as follows:

(a) On the judgment debt of \$ \_\_\_\_\_ as set out in above paragraph 1 payable by the defendants, Asminur and Shakive, to RBC at RBC's prime rate of interest per annum in effect from time to time plus 5.00% from the date of judgment.

(b) On the costs of \$ \_\_\_\_\_ as set out in above paragraph 2 payable by the defendants, Asminur and Shakive, to RBC at the rate of 5.00% per annum from the date of judgment.

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**SCHEDULE "D"**  
**CONSENT TO RECEIVER**

**TO: Royal Bank of Canada (the "Lender")**

**AND TO: Its solicitors, Minden Gross LLP**

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2668144 Ontario Inc. (the "**Debtor**") hereby consents to: (i) the immediate appointment by the Lender of a private receiver or receiver and manager in respect of the Debtor's assets, property and undertaking, including the real property municipally known as 989 Ward Street, Bridgenorth, Ontario and any and all of the Debtor's books and records (collectively, the "**Assets**"); and/or (ii) the immediate appointment by Court Order in substantially the form attached hereto as Schedule "A" of a receiver or receiver and manager of the Assets pursuant to subsections 47(1) and 243(1) of the *Bankruptcy and Insolvency Act* and section 101 of the *Courts of Justice Act*.

DATED this <sup>July</sup> 15 day of ~~April~~, 2023.

**2668144 ONTARIO INC.**

By: SR  
shakive rahaman (Jun 15, 2023 12:03 EDT)

Name: -shakive rahaman

Title:

I have authority to bind the corporation.

## Schedule "A"

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE	)	WEEKDAY, THE #
	)	
JUSTICE	)	DAY OF MONTH, 20YR

**ROYAL BANK OF CANADA<sup>1</sup>**

Plaintiff

- and -

**2668144 ONTARIO INC., ASMINUR RAHAMAN and SHAKIVE RAHAMAN**

Defendant

**ORDER  
(appointing Receiver)**

THIS MOTION made by the Plaintiff<sup>2</sup> for an Order pursuant to section 243(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 [RECEIVER'S NAME] as receiver [and manager] (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of 2668144 Ontario Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.

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<sup>1</sup> The Model Order Subcommittee notes that a receivership proceeding may be commenced by action or by application. This model order is drafted on the basis that the receivership proceeding is commenced by way of an action.

<sup>2</sup> Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".



ON READING the affidavit of [NAME] sworn [DATE] and the Exhibits thereto and on hearing the submissions of counsel for [NAMES], no one appearing for [NAME] although duly served as appears from the affidavit of service of [NAME] sworn [DATE] and on reading the consent of [RECEIVER'S NAME] to act as the Receiver,

### **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion is hereby abridged and validated<sup>3</sup> so that this motion is properly returnable today and hereby dispenses with further service thereof.

### **APPOINTMENT**

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, [RECEIVER'S NAME] is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property").

### **RECEIVER'S POWERS**

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;

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<sup>3</sup> If service is effected in a manner other than as authorized by the Ontario *Rules of Civil Procedure*, an order validating irregular service is required pursuant to Rule 16.08 of the *Rules of Civil Procedure* and may be granted in appropriate circumstances.

- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's

name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;

- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings.<sup>4</sup> The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$\_\_\_\_\_, provided that the aggregate consideration for all such transactions does not exceed \$\_\_\_\_\_; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

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<sup>4</sup> This model order does not include specific authority permitting the Receiver to either file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the Receiver wishes to take one of these steps.

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, [or section 31 of the Ontario *Mortgages Act*, as the case may be,]<sup>5</sup> shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;

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<sup>5</sup> If the Receiver will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the Receiver is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.

- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. THIS COURT ORDERS that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of

Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

7. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

**NO PROCEEDINGS AGAINST THE RECEIVER**

8. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

**NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

9. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

10. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

**NO INTERFERENCE WITH THE RECEIVER**

11. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

**CONTINUATION OF SERVICES**

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

**RECEIVER TO HOLD FUNDS**

13. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

**EMPLOYEES**

14. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any



employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

#### **PIPEDA**

15. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

16. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the

Ontario *Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

17. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

#### **RECEIVER'S ACCOUNTS**

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.<sup>6</sup>

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<sup>6</sup> Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".

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

20. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$\_\_\_\_\_ (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

24. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

### **SERVICE AND NOTICE**

25. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL '<@>'.  
<img alt="redacted email address" data-bbox="145 615 175 635"/>.

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

following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

#### **GENERAL**

27. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

28. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

29. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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

31. THIS COURT ORDERS that the Plaintiff shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

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

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**SCHEDULE "A"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that [RECEIVER'S NAME], the receiver (the "Receiver") of the assets, undertakings and properties [DEBTOR'S NAME] acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the \_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Order") made in an action having Court file number \_\_\_-CL-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$\_\_\_\_\_, being part of the total principal sum of \$\_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[RECEIVER'S NAME], solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

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


Name:

Title:



---

This is Exhibit "V" referred to  
in the Affidavit of Michael Foster  
Sworn this 30<sup>th</sup>  
day of June, 2023.

  
Rachel Moses (Jul 4, 2023 08:10 EDT)

.....  
A Commissioner for Taking Affidavits

Rachel Moses / LSO# 42081V

---

**Jeff Medeiros**

---

**From:** Rachel Moses  
**Sent:** Monday, June 19, 2023 3:34 PM  
**To:** Craig Lewis; Laura Whalen  
**Cc:** michael.foster@rbc.com; Carol Liu  
**Subject:** RE: TIME SENSITIVE 266 : Forbearance Agreement

Craig,

The deadline to pay \$27,453.36 expired on Thursday when your clients executed the forbearance agreement. You asked for an extension to Friday and the extension was granted. Your clients then told me and Melissa of our firm that payment would be made on Friday. Payment has not been made and the Bank has instructed us to prepare materials for the appointment of a receiver and judgment in accordance with the consents provided.

---

**Rachel Moses** | T: 416.369.4115 | F: 416.864.9223 | [www.mindengross.com](http://www.mindengross.com)



**From:** Craig Lewis <clewis@RZCDLAW.COM>  
**Sent:** Monday, June 19, 2023 3:12 PM  
**To:** Rachel Moses <RMoses@mindengross.com>; Laura Whalen <LWhalen@RZCDLAW.COM>  
**Cc:** michael.foster@rbc.com  
**Subject:** RE: TIME SENSITIVE 266 : Forbearance Agreement

[EXTERNAL]

Rachel,

We have impressed upon the client to pay the balance of the payment immediately.

I understand he is attempting to access the funds and wire them accordingly.

We ask respectfully for RBC's patience.

Best regards,

Craig

---

**Craig A. Lewis** | Partner | RZCD Law Firm LLP  
Suite 700, 77 City Centre Drive | Mississauga, Ontario L5B 1M5  
☎ 905.848.6100 x 264 | 905.896.1111 | [clewis@rzcdlaw.com](mailto:clewis@rzcdlaw.com) | [www.rzcdlaw.com](http://www.rzcdlaw.com) or  
[www.employmentlawyermississauga.com](http://www.employmentlawyermississauga.com)



Please consider the environment before printing this email.

CAUTION - PLEASE READ NOTICE BELOW

RZCD Law Firm LLP has taken every precaution to ensure that this message is virus free, but we cannot be responsible for any damage that may be caused by its content. This electronic mail message is directed in confidence solely to the person named above, and may not otherwise be distributed, copied or disclosed. The contents of this electronic mail message may also be subject to solicitor-client privilege and all rights to that privilege are expressly claimed and not waived. The information contained in this email is intended solely for the addressee. This message may contain confidential and/or privileged material and access to this email by anyone else is unauthorized. Unauthorized recipients are required to maintain confidentiality. Any review, retransmission, dissemination or other use of by persons or entities other than the intended recipient is prohibited and may be unlawful. If you have received this electronic mail message in error, please notify us immediately by telephone at 905.848.6100 ext. 238 (attention: Laura Whalen) and destroy this electronic mail message, without making a copy. Thank you for your assistance.

**From:** Rachel Moses [<mailto:RMoses@mindengross.com>]

**Sent:** June 19, 2023 12:07 PM

**To:** Craig Lewis <[clewis@RZCDLAW.COM](mailto:clewis@RZCDLAW.COM)>; Laura Whalen <[LWhalen@RZCDLAW.COM](mailto:LWhalen@RZCDLAW.COM)>

**Cc:** [michael.foster@rbc.com](mailto:michael.foster@rbc.com)

**Subject:** RE: TIME SENSITIVE 266 : Forbearance Agreement

**[ WARNING ] - This message comes from an external organization/individual. Do NOT reply, click links or open attachment(s) unless you recognize the sender. If the sender appears to be someone from RZCD, please contact the user directly. Also, NEVER provide your username, password, personal or credit card information.**

Hello Craig,

I have not received any response from you. I will be seeking instructions from the Bank to proceed with enforcement of the judgment and receivership.

---

**Rachel Moses** | T: 416.369.4115 | F: 416.864.9223 | [www.mindengross.com](http://www.mindengross.com)



**From:** Rachel Moses

**Sent:** Monday, June 19, 2023 10:28 AM

**To:** 'Craig Lewis' <[clewis@RZCDLAW.COM](mailto:clewis@RZCDLAW.COM)>; 'Laura Whalen' <[LWhalen@RZCDLAW.COM](mailto:LWhalen@RZCDLAW.COM)>

**Subject:** FW: TIME SENSITIVE 266 : Forbearance Agreement

Craig,

See below from our accounting department. I am at a loss as to why your client made a \$5,000 deposit when the instructions are clear that funds in the amount of \$27,453.36 are due on the date of execution, last Thursday, and by wire. \$5,000 is not the amount required to be in compliance with the terms of the forbearance agreement and direct deposit is not satisfactory as we must hold onto the funds for 10 business days. Your client is risking the Bank moving

forward with judgment and receivership. Please have your client immediate cure these defaults before noon today. Costs are also increasing because of his noncompliance.

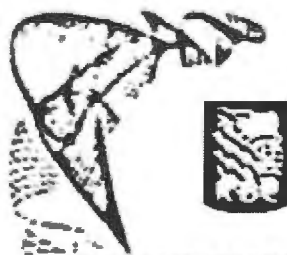
Rachel Moses | T: 416.369.4115 | F: 416.864.9223 | [www.mindengross.com](http://www.mindengross.com)



From: Melissa Lyttleton <[MLyttleton@mindengross.com](mailto:MLyttleton@mindengross.com)>  
Sent: Monday, June 19, 2023 10:18 AM  
To: Rachel Moses <[RMoses@mindengross.com](mailto:RMoses@mindengross.com)>  
Subject: RE: TIME SENSITIVE 266 : Forbearance Agreement

Rachel,  
Please advise if these funds are possibly from this client? There was a deposit made to our account on Friday.

Thanks



**Royal Bank of Canada**  
**Banque Royale du Canada**  
808 CHEMONG RD  
PETERBOROUGH, ON

DAT

---

PAY TO THE ORDER OF / PAYEZ À L'ORDRE DE **MINDEN GROSS LLP**

---

**EXACTLY \$5,000.00**


ALTERNATIVE SIGNATURE REQUIRED FOR AMOUNTS OVER \$2,000 CANADIAN DOLLARS AND OTHER CURRENCY UNITS IN ANY CURRENCY EXCEPT THE CANADIAN DOLLAR

REOBJET \_\_\_\_\_

**2668144 ONTARIO INC.**

PURCHASER NAME / NOM DE L'ACHÉTEUR \_\_\_\_\_

PURCHASER ADDRESS / ADRESSE DE L'ACHÉTEUR \_\_\_\_\_

ALTERNATIVE SIGNATURE / SIGNATURE ALTERNATIVE  


COPIES OF SIGNATURE / COPIES DE SIGNATURE

---

⑆ 72057 689⑆ ⑆ 03752 003⑆ 099 013 5⑆

Routing Transit/Account: 03752003-0990135 Proc Date: 2023

Melissa Lyttleton, CCP | Trust Accountant | T: 416.369.4301 ext. 1238 | F: 416.864.9223 | [www.mindengross.com](http://www.mindengross.com)



---

This is Exhibit "W" referred to  
in the Affidavit of Michael Foster  
Sworn this 30<sup>th</sup>  
day of June, 2023.



[Rachel Moses \(Jul 4, 2023 08:10 EDT\)](#)

.....  
A Commissioner for Taking Affidavits

Rachel Moses / LSO# 42081V

---

Court File No. CV-23-00702043-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

**ROYAL BANK OF CANADA**

Plaintiff

and

**2668144 ONTARIO INC., ASMINUR RAHAMAN and SHAKIVE RAHAMAN**

Defendants

**CONSENT**

**msi Spergel Inc.** hereby agrees to act as Receiver in the above-noted matter.

**DATED** at **TORONTO**, Ontario 30th day of June, 2023.

**msi Spergel Inc.**

Per: 

Name: Mukul Manchanda, CPA, CIRP, LIT

Title: Principal

B E T W E E N

ROYAL BANK OF CANADA  
Plaintiff

-and-

2668144 ONTARIO INC., et al  
Defendants

Court File No. CV-23-00702043-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**CONSENT**

**MINDEN GROSS LLP**  
Barristers and Solicitors  
2200 - 145 King Street West  
Toronto, ON M5H 4G2

**Rachel Moses** (LSO# 42081V)  
[rmoses@mindengross.com](mailto:rmoses@mindengross.com)  
Tel: 416-369-4115

Lawyers for the Plaintiff

(File No. 4127965)



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**B E T W E E N:**

**ROYAL BANK OF CANADA**

Plaintiff

and

**2668144 ONTARIO INC., ASMINUR RAHAMAN and SHAKIVE RAHAMAN**

Defendants

**STATEMENT OF CLAIM**

TO THE DEFENDANT(S):

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The Claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.



Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date \_\_\_\_\_ Issued by \_\_\_\_\_  
Local Registrar  
Address of 330 University Avenue, 8th Floor  
court office: Toronto ON M5G 1R7

TO: **2668144 ONTARIO INC.**  
989 Ward Street  
Bridgenorth, ON K0L 1H0

AND TO: **ASMINUR RAHAMAN**  
104 Veterans Drive  
Brampton, ON L7A 3Z7

AND TO: **SHAKIVE RAHAMAN**  
104 Veterans Drive  
Brampton, ON L7A 3Z7

- 3 -

### CLAIM

1. The plaintiff, Royal Bank of Canada ("**RBC**"), claims as against the defendant, 2668144 Ontario Inc. (the "**Debtor**") as follows:

(a) an order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended ("**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, appointing msi Spergel inc. as receiver (in such capacity, the "**Receiver**"), without security, over all of the assets, undertakings and property of the Debtor.

2. RBC claims against the defendants, Asminur Rahaman ("**Asminur**") and Shakive Rahaman ("**Shakive**):

(a) payment in the sum \$1,332,419.14 under Asminur and Shakive's joint and several guarantee of debts, liabilities and obligations of 266 to RBC, plus interest thereon from June 6, 2023 to the date of judgment at RBC's prime rate of interest per annum in effect from time to time plus 5.00%, both before and after judgment;

3. RBC claims against the defendants collectively:

- 4 -

- (a) in the alternative to paragraph 2(a), pre-judgment interest from June 2, 2023 and post-judgment interest, in accordance with sections 128 and 129 of the *Courts of Justice Act*;
- (b) the costs of this proceeding on a full indemnity basis, plus all applicable taxes; and
- (c) such further and other relief as to this Honourable Court may seem just.

### **The Parties**

4. RBC is a chartered bank with offices in Toronto, Ontario.

5. The Debtor is incorporated pursuant to the laws of Ontario, with its registered head office address at 989 Ward Street, Bridgenorth, Ontario (the “**Bridgenorth Property**”). The Debtor operates an Esso Gas Station at the Bridgenorth Property.

6. Asminur is an individual residing in the Province of Ontario. Asminur is a director of the Debtor.

7. Shakive is an individual residing in the Province of Ontario. Shakive is also a director of the Debtor.

- 5 -

8. Asminur and Shakive jointly and severally guaranteed the indebtedness of the Debtor to RBC.

### **Credit Agreement and Security**

9. The Debtor is directly indebted to RBC in connection with i) a fixed rate term loan (non-revolving) in the amount of \$1,273,852.04 (the “**Term Loan**”), ii) a revolving demand facility in the amount of \$65,000.00 (the “**Operating Facility**”), and iii) a \$15,000.00 credit card facility (the “**Visa Facility**”) made available by RBC to the Debtor pursuant to a credit facilities letter agreement dated June 22, 2021, which agreement together with the Standard Terms and RBC Visa Agreement are collectively the “**Credit Agreement**”.

10. The Debtor is further indebted to RBC in connection with a non-revolving term facility in the amount of \$100,000.00 under the Highly Affected Sectors Credit Availability Program (the “**HASCAP Facility**”) made available by RBC to the Debtor pursuant to a credit facilities agreement dated January 24, 2022 (“**HASCAP Credit Agreement**”).

11. Under the Credit Agreement, the Debtor agreed to repay the Operating Facility on demand.

12. Under the Credit Agreement, the Term Loan matured on March 21, 2023 and was not renewed by RBC.

- 6 -

13. Pursuant to the “General Covenants” section of the Credit Agreement, the Debtor agreed with RBC that it would, among other things:

- a) pay all sums of money when due under the terms of the Credit Agreement.

14. Pursuant to the “Events of Default” section of the Credit Agreement, the following events, among others, constitute an “Event of Default” entitling RBC, in its sole discretion, to realize on all or any portion of any Security (as defined in the Credit Agreement):

- a) failure of the Borrower to pay any principal, interest or other amount when due pursuant to the Credit Agreement; and
- b) failure of the Borrower, or any Guarantor if applicable, to observe any covenant, term or condition contained in the Credit Agreement, the Security, or any other agreement delivered to RBC or in any documentation relating hereto or thereto.

15. RBC pleads and relies upon all of the terms of the Credit Agreement and the HASCAP Credit Agreement.

16. As security for the Credit Facilities, the Debtor granted RBC a general security agreement on the Bank’s Standard Form 924 signed by the Debtor on February 11, 2019 (the “**GSA**”), registration in respect of which was duly made pursuant to the Personal Property Security Act (Ontario).

- 7 -

17. Pursuant to the “Events of Default” section of the GSA, failure by the Debtor to pay when due any principal or interest forming part of the Indebtedness or the Debtor’s failure to observe or perform any obligation, covenant, term, provision or condition contained in the GSA or any other agreement between the Debtor and RBC constitutes default under the GSA.

18. Pursuant to the “Remedies” section of the GSA, upon default, RBC is entitled to appoint a receiver.

19. RBC pleads and relies upon all of the terms of the GSA.

20. In support of, and as further security for the Debtor’s obligations under the Credit Agreement, the Debtor granted a Charge/Mortgage to RBC registered as Instrument No. PE306608 on March 5, 2019, in the principal amount of \$1,445,000.00, payable on demand, in connection with the Bridgenorth Property, including Standard Charge Terms 20015. RBC Charge/Mortgage and Standard Charge Terms 20015 are collectively, the “**Mortgage Security**”.

21. RBC pleads and relies upon all of the terms of the Mortgage Security.

22. In support of, and as further security for the Debtor’s obligations under the Credit Agreement, by written guarantee and postponement of claim on the Bank’s Standard Form 812 executed by them on February 11, 2019, Asminur and Shakive jointly and severally guaranteed payment to RBC of all the debts and liabilities, present or future,

- 8 -

direct or indirect, absolute or contingent, matured or not, at any time owing by the Debtor to RBC, limited to the principal amount of \$1,455,000.00 together with interest from the date of demand at a rate equal to RBC's prime interest rate per annum in effect from time to time plus 5.00%, both before and after judgment (the "**Guarantee**").

23. The Guarantee provides that:

- (a) the Guarantors guarantee payment of any and all present and future debts and liabilities owing to RBC by the Debtor;
- (b) the Guarantee is continuing and all accounts guarantee and covers all liabilities and shall apply to secure any ultimate balance due, or remaining unpaid by the Debtor to RBC;
- (c) the Guarantors' liability to make payment to RBC arises immediately upon receiving a written demand for payment from RBC;
- (d) a demand for payment is effectively made on the Guarantors by sending them an envelope containing a demand addressed to their place of address last known to RBC;
- (e) once demand has been made, the Guarantors are liable to RBC for interest on the amount demanded at a rate of 5.00% per annum above RBC's prime interest rate, from and including the date of demand until payment;

- 9 -

- (f) the Guarantors are liable to RBC for all legal fees and costs that RBC incurs on a complete indemnity scale from and including the date of demand; and
- (g) RBC is not bound to exhaust recourse against the Debtor, or other persons or security, before being entitled to payment from the Guarantors.

24. RBC pleads and relies upon all of the terms of the Guarantee.

#### **Default and Demand**

25. In March 2022, the accounts of the Debtor were transferred to RBC's Special Loans and Advisory Services Group.

26. In April 2022, RBC, as it is entitled to under the Credit Agreement, requested the Debtor provide certain financial and business information (the "**Information Request**").

27. The Debtor failed to comply with the Information Request.

28. On May 16, 2022, RBC, through its lawyers, issued a non-tolerance and reservation of rights letter (the "**Non-Tolerance and Reservation of Rights Letter**") to the Debtor advising of reporting defaults under the Credit Agreement. RBC required the Debtor to remedy the reporting defaults by June 1, 2022.



- 10 -

29. The Debtor failed to remedy the reporting defaults to the satisfaction of RBC by June 1, 2022.

30. On October 20, 2022, RBC notified the Debtor that the Term Loan would not be renewed on maturity (March 21, 2023) and strongly advised the Debtor to make arrangements with another lender to repay the Term Loan (the “**Non-Renewal Letter**”).

31. Under the Non-Renewal Letter, RBC provided the Debtor with five months’ notice of its decision not to renew the Term Loan.

32. The Debtor failed to repay the Term Loan when it matured on March 21, 2023.

33. On April 10, 2023, RBC issued payment demands and related s. 244 notices under the BIA (“**Section 244 Notice**”) to the Debtor. Payment demands were also issued to Asminur and Shakive under the Guarantee.

34. Following the expiry of the payment demands and Section 244 Notice, the Debtor asked for more time to repay the indebtedness.

35. RBC agreed to enter into a forbearance agreement with the Debtor, Asminur and Shakive (the Debtor, Asminur and Shakive are collectively the “**Credit Parties**”) on terms acceptable to RBC.

- 11 -

36. In June, 2023, RBC and the Credit Parties entered into a forbearance agreement (the "**Forbearance Agreement**") and delivered to RBC a consent to receivership and consent to judgment.

37. RBC pleads that immediately upon execution of the Forbearance Agreement, the Credit Parties were in default for failing to pay the amount of \$27,453.36 which comprised the bi-weekly payment of \$4,575.56 owing under the Term Loan since maturity ("**Term Facility Payment Default**"). Under the Forbearance Agreement, the Debtor promised to keep the Credit Facilities in good standing.

38. RBC pleads that it provided the Credit Parties with time to cure the Term Facility Payment Default. The Credit Parties have failed and/or refused to do so.

39. RBC pleads that payment demands and the Section 244 Notice have expired and the indebtedness remains outstanding.

40. Further, the Term Loan has matured and remains outstanding.

41. The Debtor is in breach of its contractual obligations under the Credit Agreement, HASCAP Credit Agreement, GSA, Mortgage Security and the Forbearance Agreement.

- 12 -

### **Basis of Appointing Receiver**

42. Section 13 of the GSA provides for the appointment of a receiver upon default.

43. Section 42 of the Mortgage Security provides for the appointment of a receiver upon default.

44. RBC has provided the Debtor with more than sufficient time to repay the indebtedness. The Debtor has been unable to fulfil its obligations to RBC.

45. RBC is entitled to take any and all steps necessary to enforce its security and realize on same.

46. RBC considers it reasonable and prudent for it to begin enforcement of its security in an effort to recover the outstanding indebtedness.

47. msi Spergel inc. has consented to act as receiver over the Debtor.

48. At the time of pleading, the indebtedness remains outstanding by the defendants, as follows (as of June 6, 2023), not including legal fees:

a) in respect of the Term Facility in the amount of \$1,174,832.61;

b) in respect of the Operating Facility in the amount of \$45,138.32;

c) in respect of the Visa Facility in the amount of \$14,916.99;

- 13 -

d) in respect of the HASCAP Loan in the amount of \$97,531.22; and

e) in respect of the CEBA loan in the amount of \$60,000.00.

49. RBC pleads that the defendants are liable to it for the relief sought herein.

June 30, 2023

**MINDEN GROSS LLP**  
Barristers and Solicitors  
2200 – 145 King Street West  
Toronto, ON M5H 4G2

**Rachel Moses** (LSO# 42081V)  
rmoses@mindengross.com  
Tel: 416-369-4115  
Fax: 416-864-9223

Lawyers for the Plaintiff

#57847334127965 v1

**ROYAL BANK OF CANADA**  
Plaintiff

-and-

2668144 ONTARIO INC., et al.  
Defendants

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**STATEMENT OF CLAIM**

**MINDEN GROSS LLP**  
Barristers and Solicitors  
2200 - 145 King Street West  
Toronto, ON M5H 4G2

**Rachel Moses** (LSO#42081V)  
rmoses@mindengross.com  
Tel: 416-369-4115

Lawyers for the Plaintiff

(File No. 4127965)

Court File No. CV-23-00702043-00CL

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

THE HONOURABLE	)	FRIDAY, THE 4 <sup>TH</sup>
	)	
JUSTICE	)	DAY OF AUGUST, 2023

**ROYAL BANK OF CANADA**

Plaintiff

- and -

**2668144 ONTARIO INC., ASMINUR RAHAMAN and SHAKIVE RAHAMAN**

Defendants

**ORDER**  
**(appointing Receiver)**

**THIS MOTION** made by the Plaintiff for an Order pursuant to section 243(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 [and manager] (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of 2668144 Ontario Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Michael Foster sworn June 30, 2023 and the Exhibits thereto and on hearing the submissions of counsel for the Plaintiff, no one appearing for the Debtor although duly served as appears from the affidavit of service of

[NAME] sworn [DATE] and on reading the consent of msi Spergel inc. to act as the Receiver,

### **SERVICE**

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

### **APPOINTMENT**

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, msi Spergel inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "**Property**").

### **RECEIVER'S POWERS**

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or



applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$10,000.00, provided that the aggregate consideration for all such transactions does not exceed \$50,000.00; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, [or section 31 of the Ontario *Mortgages Act*, as the case may be,] shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share

information, subject to such terms as to confidentiality as the Receiver deems advisable;

- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such

Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

8. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "**eligible financial contract**" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with

statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH THE RECEIVER**

11. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

#### **CONTINUATION OF SERVICES**

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

#### **RECEIVER TO HOLD FUNDS**

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post**

**Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

## **EMPLOYEES**

14. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

## **PIPEDA**

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

16. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

### **LIMITATION ON THE RECEIVER'S LIABILITY**

17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

### **RECEIVER'S ACCOUNTS**

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a

charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

20. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$200,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the



Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

24. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

#### **SERVICE AND NOTICE**

25. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL <https://www.spergelcorporate.ca/engagements>.

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices

or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

#### **GENERAL**

27. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

28. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

29. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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

31. **THIS COURT ORDERS** that the Plaintiff shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's

security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

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

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**SCHEDULE "A"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that msi Spergel inc., the receiver (the "**Receiver**") of the assets, undertakings and properties 2668144 Ontario Inc. acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the \_\_\_ day of \_\_\_\_\_, 20\_\_ (the "**Order**") made in an action having Court file number \_\_-CL-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

msi Spergel inc., solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

Per: \_\_\_\_\_  
Name:  
Title:

B E T W E E N

ROYAL BANK OF CANADA  
Plaintiff

-and- 2668144 ONTARIO INC., et al.

Defendants

Court File No. CV-23-00702043-00CL

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

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**MOTION RECORD**

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