

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) TUESDAY, THE 22ND
JUSTICE J. DIETRICH)
DAY OF SEPTEMBER, 2026

B E T W E E N:

EMPIRICAL CAPITAL CORP.

Applicant

- and -

TERRABONA 7115 YONGE LTD.

Respondent

APPROVAL, VESTING AND DISCHARGE ORDER

THIS MOTION, made by msi Spergel Inc. in its capacity as the Court-appointed receiver ("**Spergel**" or the "**Receiver**") of all present and future property, assets and undertakings of Terrabona 7115 Yonge Ltd. (the "**Debtor**") for an order:

1. validating and abridging the time for service of the Notice of Motion and the Motion Record in the manner effected by the Receiver and an Order dispensing with service thereof on any party other than the parties served;
2. approving the sale transaction (the "**Transaction**") contemplated by an Agreement of Purchase and Sale (the "**Sale Agreement**") between the Receiver and 2158046 Ontario Inc. (the "**Purchaser**") dated June 18, 2026 and appended to the First Report of the Receiver dated September 11, 2026 (the "**First Report**");

3. vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**");
4. sealing the Confidential Appendices to the First Report of the Receiver until the earlier of the completion of the Transaction or further Order of this Honourable Court;
5. approving the First Report of the Receiver and the conduct, activities and actions to date;
6. approving the Receiver's Interim Statement of Receipts and Disbursements as of September 3, 2026;
7. approving the professional fees of the Receiver, and projected fee accrual, for the period up to and including July 31, 2026, in the amount of \$52,999.04, inclusive of HST and disbursements, as well as authorizing the Receiver to make payment of such amounts from the sale proceeds;
8. approving the legal fees of SimpsonWigle LAW LLP ("**SW**"), lawyers for the Receiver, for the period up to and including August 31, 2026, in the amount of \$15,157.43, inclusive of HST and disbursements, and projected fee accrual as well as authorizing the Receiver to make payment of such amounts to SW from the sale proceeds;
9. approving and authorizing the Receiver to hold back the sum of \$41,000.00 plus disbursements and HST pending completion of all matters and the Receiver's discharge;
10. approving, authorizing and directing the Receiver to distribute the net proceeds from the sale of the Purchased Assets in accordance with the recommendations set out in the Receiver's First Report;
11. authorizing the Receiver to make payment of any priority payables and all costs to complete the administration of the receivership from the sale proceeds;

12. discharging and releasing MSI Spergel Inc. as the Receiver of the assets, undertakings, and properties of the Debtor upon payment of the amounts referenced in the Receiver's First Report and upon the Receiver filing the Certificate certifying that it has completed the activities detailed in the First Report; and,

13. such further Order as this Honourable Court deems just,

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report and on hearing the submissions of counsel for the Receiver, [NAMES OF OTHER PARTIES APPEARING], no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service of Tanisha Lashley sworn September 11, 2026, filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record be and is hereby abridged and that service of the Notice of Motion and the Motion Record in the manner effected by the Receiver be and is hereby validated and service thereof upon any party other than the parties served is hereby dispensed with.

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on Schedule B hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security

interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Madam Justice J. Dietrich dated December 1, 2025; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of York Region (No.65) of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real properties identified in Schedule B hereto (the "**Real Properties**") in fee simple, and is hereby directed to delete and expunge from title to the Real Properties all of the Claims listed in Schedule C hereto.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

9. **THIS COURT ORDERS** that the Confidential Appendices to the First Report of the Receiver be and are hereby sealed until the earlier of the completion of the Transaction or further Order of this Honourable Court.

10. **THIS COURT ORDERS** that the First Report and the conduct, activities and actions of the Receiver are hereby ratified and approved; provided, however, that only the Receiver, in its personal capacity only with respect to its own liability, shall be entitled to rely upon or utilize in any way such approval.

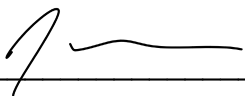
11. **THIS COURT ORDERS** that the Receiver's Interim Statement of Receipts and Disbursements, as set out in the First Report, is hereby approved.

12. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel, SimpsonWigle LAW LLP, as set out in the First Report and the Fee Affidavits, are hereby approved and payment of same is hereby authorized.

13. **THIS COURT ORDERS** that, after payment of the fees of the Receiver and its counsel, the Receiver shall make the following distributions;

- (a) To the City of Markham in the amount of \$217,603.37 or such amount accrued at the closing of the Sale Transaction for outstanding property tax arrears;
- (b) To Empirical, or such other party as Empirical might direct, for the repayment of the Borrowings, pursuant to a Receiver Certificate in the amount of \$40,000.00, plus interest thereon; and,
- (c) To Empirical, as the primary secured creditor, of the balance of any and all funds in the Debtor's estate in accordance with the recommendation of the Receiver found in the Receiver's First Report.

14. **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.



Schedule A – Form of Receiver’s Certificate

Court File No. CV-24-00731923-00CL

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B E T W E E N:

EMPIRICAL CAPITAL CORP.

Applicant

- and –

TERRABONA 7115 YONGE LTD.

Respondent

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Madam Justice J. Dietrich of the Ontario Superior Court of Justice (the "**Court**") dated December 1, 2025, msi Spergel Inc. was appointed as the receiver (the "**Receiver**") of the undertakings, properties and assets of Terrabona 7115 Yonge Ltd. (the "**Debtor**").

B. Pursuant to an Order of the Court dated [DATE], the Court approved the Agreement of Purchase and Sale made as of June 18, 2026 (the "**Sale Agreement**") between the Receiver and 2158046 Ontario Inc. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtor’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in sections 12 and 13 of the Sale Agreement have been satisfied or

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waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in sections 12 and 13 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**msi Spergel Inc., in its capacity as
Receiver of the undertakings, properties
and assets of Terrabona 7115 Yonge
Ltd., and not in its personal capacity and
without personal or corporate liability**

Per: _____
Name: Philip Gennis, JD, CIRP, LIT
Title: Licensed Insolvency Trustee

Schedule B – Purchased Assets

1. Property known municipally as 7115 Yonge Street, Markham, Ontario, and legally described as:
 - (i) LT 17 PL 2446 MARKHAM; LT 18 PL 2446 MARKHAM; LT 19 PL 2446 MARKHAM ; MARKHAM; PIN: 03020-0534 (LT)
 - (ii) PT 12 FOOT LANE PL 2446 MARKHAM CLOSED BY BYLAW R589113 PT 2, 65R15683; PT LT 321 PL 2446 MARKHAM PT 3, 65R15683 ; S/T R592477,R598392 ; MARKHAM; PIN 03020-0535 (LT)
2. Property known municipally as 8 Grandview Avenue, Markham, Ontario, and legally described as: PT LT 321 PL 2446 MARKHAM AS IN MA42926 ; MARKHAM; PIN: 03020-0368 (LT)
3. Property known municipally as 10 Grandview Avenue, Markham, Ontario, and legally described as: LT 322 PL 2446 MARKHAM ; MARKHAM; PIN: 03020-0369 (LT)
4. Property known municipally as 12 Grandview Avenue, Markham, Ontario, and legally described as: LT 323 PL 2446 MARKHAM ; MARKHAM; PIN: 03020-0370 (LT)
5. Property known municipally as 14 Grandview Avenue, Markham, Ontario, and legally described as: LT 324 PL 2446 MARKHAM ; MARKHAM; PIN: 03020-0371 (LT)

Schedule C – Claims to be deleted and expunged from title to Real Property

1. YR3501976 being a Charge in favour of Empirical Capital Corp. in the amount of \$31,000,000, registered on 2022/11/25
2. YR3501977 being a Notice of Assignment of Rents-General in favour of Empirical Capital Corp., registered on 2022/11/25
3. YR3501985 being an Application to Annex Restrictive Covenants s.118 in favour of Empirical Capital Corp., registered on 2022/11/25
4. YR3731860 being an Application to Annex Restrictive Covenants s.118 in favour of Terra Bona Developments Ltd., registered on 2024/10/24
5. YR3879491 being an Application to Register Court Order in favour of msi Spergel Inc., registered on 2025/12/19
6. YR1589871 being an Application to Change Name Owner, registered on 2010/12/16

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

- a. Any reservation or unregistered restrictions, rights of way, easements or covenants that run with the land;
- b. Any registered or unregistered agreements or easements with a municipality or a supplier of utility services including without limitation, electricity, water, sewage, gas, telephone or cable television or any other telecommunication service;
- c. Any laws, by-laws and regulations and all outstanding work orders, deficiencies notices and notices of violation affecting the land;
- d. Any minor easements for the supply of utility service to the land or adjacent lands;
- e. Any encroachments disclosed by any errors or omissions in existing surveys of the Real Property or neighbouring properties and any title defect, encroachment or breach of zoning or building by-law or any other applicable law, by-law or regulation which might be disclosed by a more up-to-date survey or the Real Property and survey matters generally;
- f. Any exceptions and qualifications set forth in the *Land Titles Act* (Ontario);
- g. Any reservation contained in the original grant from the Crown;
- h. Any Land Registrar's registered orders;
- i. Any reference plans or condominium description plans;
- j. If applicable, any registered condominium declaration or condominium by-laws;
- k. The following registered instruments affecting the Purchased Assets:
 - i Agreement – registered on 1994/02/16 as Instrument R634408
 - ii Certificate - registered on 2020/07/15 as Instrument YR3118597
 - iii Application to Annex Restrictive Covenants s.119 – registered on 2021/01/20 as Instrument No. YR3196679
 - iv Notice – registered on 2023/02/16 as Instrument No. YR3525348
 - v Bylaw - registered on 1992/02/24 as Instrument No. R589112
 - vi Bylaw - registered on 1992/02/24 as Instrument No. R589113
 - vii Transfer Easement in favour of Bell Canada – registered on 1992/04/10 as Instrument No. R592477
 - viii Bylaw - registered on 1992/07/03 as Instrument No. R598327
 - ix Transfer Easement in favour of The Corporation of the Town of Markham – registered on 1992/07/03 as Instrument No. R598392

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Court File No. CV-24-00731923-00CL

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

PROCEEDING COMMENCED AT TORONTO

APPROVAL, VESTING AND DISCHARGE ORDER

SimpsonWigle LAW LLP

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Email: fisherr@simpsonwigle.com
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Lawyers for the Receiver, msi Spergel Inc.