

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

ROYAL BANK OF CANADA

Applicant

-and-

SMART SUPER MART LTD.

Respondent

APPLICATION RECORD OF THE APPLICANT

(Returnable July 18, 2024)

July 3, 2024

HARRISON PENSA LLP
Barristers & Solicitors
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London, ON N6A 5R2

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Lawyers for the Applicant,
Royal Bank of Canada

TO: SERVICE LIST

SERVICE LIST

TO: **SMART SUPER MART LTD.**
213 Edenbrook Hill Drive
Brampton, ON L7A 2V4
Email: rickchohan72@gmail.com & smartsupermartltd@gmail.com

Respondent

AND

TO: **MSI SPERGEL INC.**
505 Consumers Road, Suite 200
Toronto, Ontario M2J 4V8

Attention: Mukul Manchanda

Tel: (416) 498-4314
Fax: (416) 498-4314
Email: mmanchanda@spergel.ca

Proposed Receiver

AND

TO: **FOGLER, RUBINOFF LLP**
77 King Street West
Suite 3000, P.O. Box 95
TD Centre North Tower
Toronto, ON M5K 1G8

RACHEL MOSES

Tel: (416) 864-7627
Fax: (416) 941-8852
Email: rmoses@foglers.com

Lawyers for Proposed Receiver,
msi Spergel inc.

AND

TO: **RAVINDER SINGH CHOHAN and SHAINA RATHORE**
213 Edenbrook Hill Drive
Brampton, ON L7A 2V4
Email: rickchohan72@gmail.com

Guarantors

AND

TO: **SATVINDER KAUR CHAHUAN and BALJINDER CHAUHAN**
36 Parity Road
Brampton, ON L6X 5M5
Email: smartsupermartltd@gmail.com

Guarantors

AND

TO: **CANADA REVENUE AGENCY**
c/o Department of Justice
Ontario Regional Office
120 Adelaide St. W., Suite 400
Toronto, ON M5H 1T1
Email: AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca

AND

TO: **HIS MAJESTY THE KING IN RIGHT
OF ONTARIO AS REPRESENTED BY
THE MINISTRY OF FINANCE**
Revenue Collections Branch – Insolvency Unit
33 King Street W., P.O. Box 627
Oshawa, ON L1H 8H5
Email: insolvency.unit@ontario.ca

AND

TO: **NISSAN CANADA INC.**
5290 Orbitor Drive
Mississauga, ON L4W 4Z5

AND

TO: **CITY OF ST. CATHARINES**
50 Church Street
P.O. Box 3012
St. Catharines, ON L2R 7C2

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Tab 1



Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

ROYAL BANK OF CANADA

Applicant

-and-

SMART SUPER MART LTD.

Respondent

NOTICE OF APPLICATION

**APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT,
RSC 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE ACT,
R.S.O. 1990, C.C.43**

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing:

- In person
- By telephone conference
- By video conference

at the following location:

On Thursday, July 18, 2024, at 10:00 a.m. or as soon after that time as the application can be heard by judicial teleconference via Zoom at Hamilton, Ontario. Zoom particulars to follow.

IF YOU WISH TO OPPOSE THIS APPLICATION, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38C prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer, or where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but not later than 2 p.m. on the day before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date:

Issued by _____

Registrar
Superior Court of Justice
45 Main Street E.
Hamilton, Ontario L8N 2B7

TO: Service List Attached

SERVICE LIST

TO: **SMART SUPER MART LTD.**
213 Edenbrook Hill Drive
Brampton, ON L7A 2V4
Email: rickchohan72@gmail.com & smartsupermartltd@gmail.com

Respondent

AND

TO: **MSI SPERGEL INC.**
505 Consumers Road, Suite 200
Toronto, Ontario M2J 4V8

Attention: Mukul Manchanda
Tel: (416) 498-4314
Fax: (416) 498-4314
Email: mmanchanda@spergel.ca

Proposed Receiver

AND

TO: **FOGLER, RUBINOFF LLP**
77 King Street West
Suite 3000, P.O. Box 95
TD Centre North Tower
Toronto, ON M5K 1G8

RACHEL MOSES
Tel: (416) 864-7627
Fax: (416) 941-8852
Email: rmoses@foglers.com

Lawyers for Proposed Receiver,
msi Spergel inc.

AND

TO: **RAVINDER SINGH CHOHAN and SHAINA RATHORE**
213 Edenbrook Hill Drive
Brampton, ON L7A 2V4
Email: rickchohan72@gmail.com

Guarantors

AND

TO: **SATVINDER KAUR CHAHUAN and BALJINDER CHAUHAN**
36 Parity Road
Brampton, ON L6X 5M5
Email: smartsupermartltd@gmail.com

Guarantors

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c/o Department of Justice
Ontario Regional Office
120 Adelaide St. W., Suite 400
Toronto, ON M5H 1T1
Email: AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca

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TO: **HIS MAJESTY THE KING IN RIGHT
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THE MINISTRY OF FINANCE**
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Email: insolvency.unit@ontario.ca

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TO: **NISSAN CANADA INC.**
5290 Orbitor Drive
Mississauga, ON L4W 4Z5

AND

TO: **CITY OF ST. CATHARINES**
50 Church Street
P.O. Box 3012
St. Catharines, ON L2R 7C2

THE APPLICATION IS FOR:

The Applicant, Royal Bank of Canada (the “**Bank**”), seeks the following relief:

1. An order (the “**Appointment Order**”) substantially in the form attached hereto as Schedule “A”, *inter alia*, appointing msi Spergel inc., as Receiver (“**Spergel**”, or the “**Receiver**”), without security, of all of the assets, undertakings and properties of the Respondent, Smart Super Mart Ltd. (the “**Debtor**”), acquired for, or used in relation to a business or businesses carried on by the Debtor, including the Real Property (as defined below), located in St. Catharines, Ontario;
2. That the time for service, filing and confirming of the Notice of Application and the Application Record be abridged and validated so that this application is properly returnable today and dispensing with further service thereof; and,
3. Such further and other relief as to this Honourable Court may seem just.

THE GROUNDS FOR THE APPLICATION ARE:

The Debtor

1. The Debtor is a corporation incorporated pursuant to the laws of Ontario, with its registered office located in Brampton, Ontario, which operates an “Esso” gas station from the Real Property, owned by the Debtor.

The Financing and the Bank’s Security

2. As of June 17, 2024, the Debtor was indebted to the Bank in the amount of \$1,762,861.57, plus accruing interest and the Bank’s continuing costs of enforcement, including legal costs and professional costs (the “**Indebtedness**”) in respect of financing advanced to the Debtor pursuant to the terms of a Letter Agreement dated June 28, 2021, and amended

by Amending Agreements dated January 19, 2022, and November 2, 2022 (collectively, the "**Letter Agreement**").

3. The credit facilities established by the Letter Agreement are:
 - a. Term Loan: in the sum of \$1,769,033.64, upon which the sum of \$1,625,711.50 was owing as at June 17, 2024;
 - b. Revolving Demand Facility: in the sum of \$75,000.00, upon which the sum of \$75,398.68 was owing as at June 17, 2024;
 - c. Letter of Credit: in the sum of \$50,000.00, upon which the sum of \$50,000.00 was owing as at June 17, 2024; and,
 - d. Credit Card Facility: with a credit limit of \$10,000.00, upon which the sum of \$11,751.39 was owing as at June 17, 2024.
- (3 (a) – (d) collectively, the "**Financing**").
4. The terms of the Financing require the Debtor to, *inter alia*, to not borrow in excess of the credit limits of the Financing, pay all material taxes or potential prior-ranking claims which may take priority over the Indebtedness and not to further encumber the Real Property.
5. The Bank holds, *inter alia*, the following as security for the Financing:
 - a. General Security Agreement from the Debtor dated January 11, 2020 (the "**GSA**"); and
 - b. Charge/Mortgage of Land from the Debtor, in the principal sum of \$2,135,000.00, received as instrument number NR547245 on July 23, 2020 (the "**Mortgage**"), as governed by Standard Charge Terms 20015 ("**STC 20015**"), over the real property

municipally known as 179-185 St. Paul Street West, St. Catherines, Ontario, legally described as:

PART LOTS 1852-1854 CP PL 2 GRANTHAM, DESIGNATED AS PART 2
30R15372; CITY OF ST CATHARINES (PIN 46179-0340 (LT)) (the “**Real Property**”)

(5 (a) – (b) collectively, the “**Security**”, or the “**Bank’s Security**”).

The Bank’s Security Interest in the Debtor’s Personal Property

6. The Bank has registered a Financing Statement against the Debtor pursuant to the provisions of the *Personal Property Security Act* (Ontario) to perfect its security interest in the property of the Debtor secured under the GSA.
7. The Personal Property Security Registration System Search Results for the Debtor confirm that the Bank has a perfected security interest in the personal property of the Debtor.

The Bank’s Security Interest in the Real Property

8. The Bank’s interest in the Real Property is secured by the Mortgage, as governed by SCT 20015.
9. Pursuant to SCT 20015, the Mortgage secures the Indebtedness.

Defaults, Demands and Communications

10. The Debtor defaulted under the terms of the Letter Agreement as a result of, *inter alia*:
 - a. failure to maintain realty taxes with respect to the Real Property current;
 - b. borrowing in excess of credit limits; and

- c. has encumbered the Real Property by way of the Certificate registered by The Corporation of the City of St. Catharines (10 (a) – (c) collectively, the "**Defaults**").
- 11. On July 26, 2023 the City of St. Catharines registered a Tax Arrears Certificate against title to the Real Property, and as a result the City of St. Catharines will be in a position to commence a tax sale of the Real Property.
- 12. As a result of the Defaults, the Bank did deliver to the Debtor a demand for payment and a Notice of Intention to Enforce Security pursuant to section 244(1) of the *Bankruptcy and Insolvency Act* (the "**BIA**"), each dated June 20, 2024. The Bank also delivered demands to the guarantors of the Debtor, also dated June 20, 2024 (collectively, the "**Demands**").
- 13. The Debtor and the guarantors of the Debtor have failed to repay the Indebtedness due, despite the Demands.

The Appointment of a Receiver

- 14. The Indebtedness due pursuant to the Demands have not been paid. The ten (10) day period under section 244 of the *BIA* has expired. The Bank is in a position to appoint a receiver over the assets and property of the Debtor, including the Real Property, pursuant to section 243 of the *BIA*.
- 15. The provisions of the Bank's Security provide the Bank with the power to appoint a Receiver over all of the personal property of the Debtor as secured by the GSA and the Real Property as secured by the Mortgage.

The Bank's Position

- 16. The Debtor is in default of the Financing, and the Defaults continue. No further credit nor banking services are available to the Debtor.

17. The Demands have expired, and the Bank is in a position to seek the order appointing the Receiver, pursuant to the provisions of the GSA and the SCT 20015.
18. The Appointment of a Receiver is necessary in order to conclude a sale of the Real Property and the Debtor's business, and to apply the proceeds of such sale to the Debtor's indebtedness.
19. The appointment of a Receiver is necessary to (i) determine the actual state of the Debtor's business, and (ii) if necessary, to manage the Debtor's businesses until a sale of the Real Property can be arranged.
20. A Receiver will ensure the provident sale of the Real Property for the benefit of all stakeholders.
21. The Bank is unaware of the condition of the Real Property and whether it is being properly maintained. Absent the appointment of a Receiver, the state of the Real Property may degrade, which will negatively impact the value of the Bank's Security. The appointment of a Receiver is necessary to ensure that the Real Property is maintained until a sale can be arranged.
22. The appointment of a Receiver will also be necessary to address payment or resolution of the property tax arrears in relation to the Real Property.
23. Further, the appointment of a Receiver will also be necessary to settle any issues of priority as between the Bank's Security and the Debtor's other creditors.
24. It is the Bank's position that the appointment of the Receiver is just and equitable and is necessary for the protection of the estate of the Debtor, and the interests of the Bank, as secured creditor, and other stakeholders.

25. The Bank proposes that Spergel be appointed as Receiver, without security, over all of the assets, undertakings, and properties of the Debtor, including the Real Property.
26. Spergel has consented to act as Receiver should this Honourable Court so appoint it.
27. Section 243 of the *Bankruptcy and Insolvency Act, R.S.C., 1985, c. B-3, as amended*.
28. Section 101 of the *Courts of Justice Act, R.S.O. 1990, c. C.43, as amended*.
29. Rule 3, 14, 38 and any other applicable Rule of the *Rules of Civil Procedure*.
30. Such further and other grounds as counsel may advise.

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

1. The Notice of Application and all Schedules thereto;
2. The Affidavit of Craig McInnes to be sworn, and all Exhibits thereto;
3. The Consent of the Receiver; and,
4. Such further and other material as counsel may advise and this Honourable Court may permit.

July 3, 2024

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Barristers & Solicitors
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London, ON N6A 5R2

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rdanter@harrisonpensa.com

Lawyers for the Applicant,
Royal Bank of Canada

Schedule “A-1” – Appointment Order (Clean)

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE) THURSDAY, THE 18
)
JUSTICE) DAY OF JULY, 2024
)

ROYAL BANK OF CANADA

Applicant

- and -

SMART SUPER MART LTD.

Respondent

ORDER
(Appointing Receiver)

THIS APPLICATION made by the Applicant 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 (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of Smart Super Mart Ltd. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, including the real property described at Schedule "A" hereto and owned by the Respondent (the "Real Property") was heard this day at 45 Main Street East, Hamilton, Ontario.

ON READING the affidavit of Craig McInnes sworn July 3, 2024 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant, no one appearing 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 Application and the Application 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 the Real Property and also 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 \$25,000.00, provided that the aggregate consideration for all such transactions does not exceed \$150,000.00; 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 \$150,000.00 (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 "B" 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 https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-%20commercial/#Part_III_The_E-Service_List) 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>](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.

Justice, Ontario Superior Court of Justice

SCHEDULE "A"

REAL PROPERTY

PART LOTS 1852-1854 CP PL 2 GRANTHAM, DESIGNATED AS PART 2 30R15372; CITY
OF ST CATHARINES (PIN 46179-0340 (LT)).

SCHEDULE "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$_____

1. THIS IS TO CERTIFY that msi Spergel inc., the receiver (the "Receiver") of the assets, undertakings and properties Smart Super Mart Ltd. acquired for, or used in relation to a business carried on by the Debtor, including the Real Property and including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (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:

ROYAL BANK OF CANADA

Applicant

v.

SMART SUPER MART LTD.

Respondent

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**
PROCEEDING COMMENCED AT
HAMILTON, ONTARIO

ORDER

HARRISON PENSA LLP
Barristers & Solicitors
130 Dufferin Avenue, Suite 1101
London, Ontario N6A 5R2

**Timothy C. Hogan (LSO #36553S)
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Email: thogan@harrisonpensa.com
rdanter@harrisonpensa.com

Lawyers for the Applicant,
Royal Bank of Canada

Schedule “A-2” – Appointment Order (Blacklined)

Revised: January 21, 2014

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE

~~COMMERCIAL LIST~~

PLAINTIFF⁴ROYAL BANK OF CANADA

Plaintiff/Applicant

- and -

DEFENDANTSMART SUPER MART LTD.

~~Defendant~~ Respondent

ORDER (Appointing Receiver)

THIS **MOTION APPLICATION** made by the **Plaintiff² Applicant** 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]**msi Spergel inc. as receiver **[and manager]** (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of **[DEBTOR'S NAME]**Smart Super Mart Ltd. (the "Debtor") acquired for, or used in relation to a

⁴ 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.

² Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".

business carried on by the Debtor, including the real property described at Schedule "A" hereto and owned by the Respondent (the "Real Property") was heard this day at 330 University Avenue, Toronto, Ontario.45 Main Street East, Hamilton, Ontario.

ON READING the affidavit of [NAME]Craig McInnes sworn [DATE]July 3, 2024 and the Exhibits thereto and on hearing the submissions of counsel for [NAME],the Applicant, 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]msi Spergel Inc. to act as the Receiver,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion Application and the Motion Application is hereby abridged and validated³ 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]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 the Real Property and also 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:

³ 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.

- (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.⁴ 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 \$_____, \$25,000.00, provided that the aggregate consideration for all such transactions does not exceed \$_____; \$150,000.00; 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*

⁴ ~~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.~~

Act, as the case may be,]⁵ 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.

⁵ ~~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.~~

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.⁶

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 \$150,000.00 (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

⁶~~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".~~

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 "BA" 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 https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-%20commercial/#Part_III_The_E-Service_List)

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.

Justice, Ontario Superior Court of Justice

DOCSTOR: 1771742\8

SCHEDULE "A"

REAL PROPERTY

PART LOTS 1852-1854 CP PL 2 GRANTHAM, DESIGNATED AS PART 2 30R15372; CITY
OF ST CATHARINES (PIN 46179-0340 (LT)).

SCHEDULE "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$_____

1. THIS IS TO CERTIFY that msi Spergel inc., [RECEIVER'S NAME], the receiver (the "Receiver") of the assets, undertakings and properties [DEBTOR'S NAME] Smart Super Mart Ltd. acquired for, or used in relation to a business carried on by the Debtor, including the Real Property and 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]msi Spergel inc., solely
in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name: _____

Title: _____

ROYAL BANK OF CANADA

Applicant

v.

SMART SUPER MART LTD.

Respondent

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**
PROCEEDING COMMENCED AT
HAMILTON, ONTARIO

ORDER

HARRISON PENSA LLP
Barristers & Solicitors
130 Dufferin Avenue, Suite 1101
London, Ontario N6A 5R2

**Timothy C. Hogan (LSO #36553S)
Robert Danter (LSO #69806O)**

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Lawyers for the Applicant,
Royal Bank of Canada

ROYAL BANK OF CANADA

Applicant

v. SMART SUPER MART LTD.

Respondent

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**
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HAMILTON, ONTARIO

NOTICE OF APPLICATION

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Lawyers for the Applicant,
Royal Bank of Canada

Tab 2

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

ROYAL BANK OF CANADA

Applicant

-and-

SMART SUPER MART LTD.

Respondent

AFFIDAVIT OF CRAIG MCINNES

(Sworn July 3, 2024)

I, **CRAIG MCINNES**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a Manager, Special Loans, with the Applicant, Royal Bank of Canada (the “**Bank**”), and as such have knowledge of the matters to which I hereinafter depose. Unless I indicate to the contrary these matters are within my own knowledge and are true. Where I have indicated that I have obtained facts from other sources, I have identified the source and I believe those facts to be true.

The Debtor

2. The Respondent, Smart Super Mart Ltd. (the “**Debtor**”), is a company incorporated pursuant to the laws of Ontario, with its registered office located in the City of Brampton, Ontario. Attached hereto and marked as **Exhibit “A”** is a true copy of the corporate profile search results for the Debtor.

3. The Debtor operates an “Esso” gas station from owned real property, municipally known as 179-185 St. Paul Street West, St. Catherines, Ontario, and legally described as:

- i. PART LOTS 1852-1854 CP PL 2 GRANTHAM, DESIGNATED AS PART 2 30R15372; CITY OF ST CATHARINES (PIN 46179-0340 (LT)) (the “**Real Property**”).

Attached hereto to this my affidavit and marked as **Exhibit “B”** is a true copy of the parcel registry search results for the Real Property, along with a copy of the Tax Notice (as defined below).

4. The Debtor defaulted under the terms of the Letter Agreement, as defined below, as a result of the following:
 - a. failure to maintain realty taxes with respect to the Real Property current;
 - b. borrowing in excess of credit limits; and,
 - c. has encumbered the Real Property by way of a Tax Certificate registered by The Corporation of the City of St. Catharines (the “**City**”) on July 26, 2023 (the “**Tax Notice**”). The City is in a position to commence a tax sale of the real property on July 27, 2024 and is owed \$157,245.87 as of June 12, 2024. (collectively, the “**Defaults**”).
5. The Bank is unwilling to provide the Debtor with any further credit or forbearance.

The Financing and The Bank’s Security

6. As of June 17, 2024, the Debtor was indebted to the Bank in the amount of \$1,762,861.57, plus the costs of enforcement, including legal and professional costs, and interest (the “**Obligations**”), in respect of certain financing advanced to the Debtor pursuant to the terms of a Letter Agreement dated June 28, 2021, and amended by Amending Agreements dated January 19, 2022, and November 2, 2022 (collectively, the “**Letter Agreement**”). Attached hereto and marked as **Exhibit “C”** is a true copy of the Letter Agreement.
7. The credit facilities established by the Letter Agreement are:

- a. Term Loan: in the sum of \$1,769,033.64, upon which the sum of \$1,625,711.50 was owing as at June 17, 2024;
 - b. Revolving Demand Facility: in the sum of \$75,000.00, upon which the sum of \$75,398.68 was owing as at June 17, 2024;
 - c. Letter of Credit: in the sum of \$50,000.00, upon which the sum of \$50,000.00 was owing as at June 17, 2024; and,
 - d. Credit Card Facility: with a credit limit of \$10,000.00, upon which the sum of \$11,751.39 was owing as at June 17, 2024
- (collectively, the “**Financing**”).
8. The terms and conditions of the Letter Agreement required the Debtor to (i) pay all material taxes or potential prior-ranking claims which may take priority over the Obligations; (ii) to not borrow in excess of the credit limits of the Financing; and (iii) not to further encumber the Real Property.
9. As consideration for the Financing, the Bank requested and did receive the following as security for the Financing:
 - a. General Security Agreement from the Debtor dated January 11, 2020 (the “**GSA**”). Attached hereto and marked as **Exhibit “D”** is a true copy of the GSA; and,
 - b. First position Charge/Mortgage, in the principal sum of \$2,135,000.00, received as instrument number NR547245 on July 23, 2020, over the Real Property (the “**Mortgage**”), as governed by Standard Charge Terms No. 20015 (the “**Standard Charge Terms**”). Attached hereto to this my affidavit and marked as **Exhibit “E”** is a true copy of the Mortgage. Attached hereto to this my affidavit and marked as **Exhibit “F”** is a true copy of the Standard Charge Terms.

The Bank’s Security Interest in the Personal Property of the Debtor

10. The GSA secures the following personal property of the Debtor:

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");

viii. all property described in Schedule "C" or any schedule now or hereafter annexed hereto...

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.

11. The Bank has registered a Financing Statement as against the Debtor pursuant to the provisions of the *Personal Property Security Act* (Ontario) to perfect its security interest in the personal property of the Debtor secured under the GSA.
12. The Personal Property Security Registration System Search Results for the Debtor confirms that the Bank holds a perfected security interest in the personal property of the Debtor as secured by the GSA. Attached hereto and marked as **Exhibit "G"** is a true copy of the Personal Property Security Registration System Search Results for the Debtor, current to June 25, 2024.

The Bank's Security Interest in the Real Property

13. The Bank's interest in the Real Property is secured by the Mortgage, as governed by the Standard Charge Terms, and the Mortgage is a first charge upon the Real Property.
14. The Standard Charge Terms include, *inter alia*, the following terms (emphasis added):

2. COLLATERAL SECURITY

The Chargor [the Debtor] has at the request of the Chargee [the Bank]

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.

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.

15. Pursuant to the Standard Charge Terms, the Mortgage secures the Obligations.

Defaults and the Demands

16. On October 20, 2023, the Bank delivered a letter to the Debtor advising of certain defaults and requesting that the Debtor remedy such by November 13, 2023. Attached hereto and marked as **Exhibit “H”** is a true copy of the Bank’s letter dated October 20, 2023.
17. On January 2, 2024, the Bank received a letter from counsel for the Debtor, advising that the Debtor was arranging for a second mortgage to be registered against the Real Property. Attached hereto and marked as **Exhibit “I”** is a true copy of the letter from counsel for the Debtor.
18. On January 9, 2024, counsel for the Bank emailed counsel for the Debtor noting that the Debtor was not permitted to further encumber the Real Property, and that the Debtor was in default as a result of:

- a. Reporting defaults, as set out in the Bank's letter dated October 20, 2023;
- b. Failing to make payments to the Bank as they became due; and,
- c. Property tax arrears in relation to the Real Property.

Attached hereto and marked as **Exhibit "J"** is a true copy of the email from the Bank's counsel dated January 9, 2024.

19. On January 19, 2024, counsel for the Bank emailed counsel for the Debtor advising that despite the defaults of the Debtor, the Bank was willing to permit the sought second charge against the Real Property, subject to certain terms. The terms included, but were not limited to, that the property tax arrears against the Real Property were paid in full and the City certificate registered against the Real Property was deleted from title to the Real Property. Attached hereto and marked as **Exhibit "K"** is a true copy of the email from the Bank's counsel dated January 19, 2024.
20. On March 15, 2024, counsel for the Bank emailed counsel for the Debtor advising that the Financing had been brought current, but counsel recorded no response to his email on January 19, 2024 and asked for details on:
 - a. The status of the Debtor's property tax arrears and whether the registration by the City had been deleted from the Real Property;
 - b. The status of the Debtor's accounts with the Canada Revenue Agency; and,
 - c. The status of the financing in relation to the second charge against the Real Property.
21. On March 15, 2024, counsel for the Debtor emailed counsel for the Bank advising that he would respond accordingly. Attached hereto and marked as **Exhibit "M"** is a true copy of the email from the Debtor's counsel dated March 15, 2024.
22. On March 15, 2024, counsel for the Bank emailed counsel for the Debtor noting

that the registration by the City was still on title to the Real Property, and such had to be dealt with as it was a major default and concern. Attached hereto and marked as **Exhibit “N”** is a true copy of the email from the Bank’s counsel dated March 15, 2024.

23. Counsel for the Bank did not receive a further response from counsel for the Debtor.
24. On May 22, 2024, the Bank received a Final Notice from the City dated May 10, 2024, advising, among other things, that the Real Property would be advertised for public sale unless the cancellation price was paid or an extension agreement was entered into before July 26, 2024. Attached hereto and marked as **Exhibit “O”** is a true copy of the Final Notice dated May 10, 2024.
25. The Debtor is insolvent, and has defaulted under the Financing, as set out above.
26. As a result of the Defaults, the Bank did deliver a demand for payment and a Notice of Intention to Enforce Security to the Debtor, both dated June 20, 2024, pursuant to section 244(1) of the *Bankruptcy and Insolvency Act* (the “**BIA**”). The Bank also delivered a demand to the guarantors of the Debtor, also dated June 20, 2024 (collectively, the “**Demands**”). Attached hereto and marked as **Exhibit “P”** is a true copy of the Demands with the corresponding registered mail receipt.
27. On June 21, 2024, the Bank’s counsel received correspondence from a representative of the Debtor advising, among other things, that the Debtor was currently facing significant challenges, and was requesting an extension of at least one month. Attached hereto and marked as **Exhibit “Q”** is a true copy of the email from a representative of the Debtor dated June 21, 2024.
28. On June 24, 2024, the Bank’s counsel responded to the Debtor’s request and advised that due to the City being in a position to commence a tax sale following July 26, 2024, the Bank would be applying to the Court for an Order appointing a Receiver, and that the Debtor should have its counsel contact the Bank’s counsel. Attached hereto and marked as **Exhibit “R”** is a true copy of the email from the Bank’s counsel dated June 24, 2024.
29. On June 24, 2024, the Bank’s counsel received correspondence from a

representative of the Debtor advising, among other things, that the Debtor was discussing the property taxes with the City officials, that they had requested a meeting with the City officials, and that an update would be provided. Attached hereto and marked as **Exhibit “S”** is a true copy of the email from a representative of the Debtor dated June 24, 2024.

30. On July 2, 2024, the Bank received correspondence from a representative of the Debtor advising, among other things, that they had a meeting with the City, and that the City would like to have a meeting with the Bank. Attached hereto and marked as **Exhibit “T”** is a true copy of the email from a representative of the Debtor dated July 2, 2024.
31. On July 2, 2024, the Bank’s counsel responded to the Debtor and advised that it would be best if the City provided its position to the Bank in writing, and inquired if the Debtor could arrange for such. Attached hereto and marked as **Exhibit “U”** is a true copy of the email from the Bank’s counsel dated July 2, 2024.
32. On July 2, 2024, the representative of the Debtor advised that they would check with the City and provide an update. Attached hereto and marked as **Exhibit “V”** is a true copy of the email from a representative of the Debtor dated July 2, 2024.
33. At the time of swearing this Affidavit, the Bank has not been provided an update with respect to the property taxes or the position of the City.
34. Attached hereto and marked as **Exhibit “W”** is a true copy of a Tax Certificate issued by the City dated June 12, 2024 showing a balance of \$157,245.87 owing on account to the City.
35. All statutory notice periods in relation to the Demands have expired, and the Debtor and the guarantors of the Debtor have failed to repay the Obligations due, despite the Demands.

The Appointment of a Receiver

36. The Obligations due pursuant to the Demands have not been paid. The Debtor is in default of the Financing.

37. The ten (10) day period under section 244(1) of the *BIA* has expired. The Bank is in a position to appoint a Receiver over the property of the Debtor as secured pursuant to the Security, pursuant to section 243 of the *BIA*.

Personal Property

38. Paragraph 13(a) of the GSA grants the Bank the right to appoint a Receiver over all personal property of the Debtor, secured thereunder, as a result of the Defaults, as follows:

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 of 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 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.

39. The Debtor is in default of the terms of the Financing and the Obligations are due and payable in full.
40. The provisions of the Bank's Security provide the Bank with the power to appoint a Receiver over all personal property of the Debtor as secured by the GSA.

The Real Property

41. The Standard Charge Terms grant the Bank the power to appoint a Receiver over the Real Property as a result of the Defaults, and state, in part:

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 Charges Premises, or any part thereof, and of the rents and profits thereof, and with or without security..

42. The Debtor is in Default of the Financing. The Bank is entitled to seek the appointment of a Receiver over the property of the Debtor, including the Real Property as a result thereof, and the terms of the Mortgage, as governed by the Standard Charge Terms, provide the Bank with the power to appoint a Receiver over the Real Property.

The Bank's Position

43. The Debtor is in default of the Financing, which Defaults continue. The terms of the Security authorize the Bank to appoint a Receiver over all property of the Debtor, including the Real Property, as a result of the Defaults.
44. The Obligations due pursuant to the Demands have not been paid. All notice periods under the BIA have expired, and the Bank is unwilling to provide the Debtor with any further credit or with any forbearance.

45. The Bank is in a position to seek the Order Appointing the Receiver over the personal property of the Debtor and the Real Property, pursuant to the provisions of the GSA and the Mortgage, respectively.
46. The Appointment of a Receiver is necessary in order to conclude a sale of the Real Property and the Debtor's business, and to apply the proceeds of such sale to the Debtor's obligations.
47. The Debtor's liquidity crisis will continue to negatively impact the Debtor's ability to service its debts, both to the Bank as senior secured creditor, as well as any other creditors. The appointment of a Receiver is necessary to (i) determine the actual state of the Debtor's business, and (ii) if necessary, to manage the Debtor's business until a sale of the Real Property can be arranged.
48. The Bank is unaware whether the Real Property is being properly maintained. Absent the appointment of a Receiver, the state of the Real Property may degrade, which will negatively impact the value of the Bank's Security. The appointment of a Receiver is necessary to ensure that the Real Property is maintained until a sale can be arranged.
49. The appointment of a Receiver will also be necessary to address payment or resolution of the property tax arrears in relation to the Real Property, and ensure that such amounts do not continue to increase.
50. Further, the appointment of a Receiver will also be necessary to settle any issues of priority as between the Bank's Security and the Debtor's other creditors.
51. It is the Bank's position that the appointment of the Receiver is just and equitable and is necessary for the protection of the estate of the Debtor, and the interests of the Bank, as a secured creditor, and other stakeholders.
52. The Bank proposes that msi Spergel inc ("Spergel") be appointed as Receiver, without security, of the Real Property, as secured by the Mortgage, and over all personal property of the Debtor, as secured by the GSA.
53. Spergel has consented to act as Receiver should this Honourable Court so appoint it.

54. This affidavit is made in support of the within application for the appointment of Spergel as Receiver, without security, over all of the accounts and inventory of the Debtor, and for no other improper purpose.

Sworn or Affirmed before me: in person OR by video conference

by Mark Lavecchia of the City of Toronto, in the Province of Ontario, before me at the City of London in the Province of Ontario, on July 3, 2024 in accordance with [O. Reg. 431/20](#), Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)



Signature of Commissioner



CRAIG MCINNES

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

ROYAL BANK OF CANADA

Applicant

-and-

SMART SUPER MART LTD.

Respondent

ATTACHED HERETO ARE EXHIBITS "A" TO "W"
AS REFERRED TO IN THE AFFIDAVIT OF CRAIG MCINNES,
SWORN BEFORE ME BY VIDEOCONFERENCE JULY 3, 2024.



A Commissioner, etc.

EXHIBIT "A"



Profile Report

SMART SUPER MART LTD. as of January 05, 2024

| | |
|-----------------------------------|--|
| Act | Business Corporations Act |
| Type | Ontario Business Corporation |
| Name | SMART SUPER MART LTD. |
| Ontario Corporation Number (OCN) | 2637978 |
| Governing Jurisdiction | Canada - Ontario |
| Status | Active |
| Date of Incorporation | May 29, 2018 |
| Registered or Head Office Address | 213 Edenbrook Hill Drive, Brampton, Ontario, Canada, L7A 2V4 |

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

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
Maximum Number of Directors

1

12

Name

SATVINDER KAUR CHAUHAN

Address for Service

36 Parity Road, Brampton, Ontario, Canada, L6X 5M5

Resident Canadian

Yes

Date Began

May 29, 2018

Name

RAVINDERJIT SINGH CHOCHAN

Address for Service

213 Edenbrook Hill Drive, Brampton, Ontario, Canada, L7A

2V4

Yes

Resident Canadian

May 29, 2018

Date Began

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintarilla W.

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 Officer(s)

| | |
|----------------------------|--|
| Name | SATVINDER KAUR CHAUHAN |
| Position | Vice-President |
| Address for Service | 36 Parity Road, Brampton, Ontario, Canada, L6X 5M5 |
| Date Began | May 29, 2018 |
| | |
| Name | RAVINDERJIT SINGH CHOCHAN |
| Position | President |
| Address for Service | 213 Edenbrook Hill Drive, Brampton, Ontario, Canada, L7A 2V4 |
| Date Began | May 29, 2018 |

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintarilla W.

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.

Corporate Name History

Name SMART SUPER MART LTD.
Effective Date May 29, 2018

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintarilla W.

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 Business Names

| | |
|---|------------------|
| Name | SMART SUPER MART |
| Business Identification Number (BIN) | 300776176 |
| Registration Date | July 21, 2020 |
| Expiry Date | July 20, 2025 |

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintarilla W.

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.

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 Public and Business Service Delivery.

V. Quintanilla W.

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 |
|---|----------------|
| CIA - Initial Return PAF: RAVINDERJIT SINGH CHOCHAN - DIRECTOR | July 13, 2020 |
| BCA - Articles of Incorporation | May 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 Public and Business Service Delivery.

V. Quintanilla W.

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.

EXHIBIT "B"

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: PART LOTS 1852-1854 CP PL 2 GRANTHAM, DESIGNATED AS PART 2 30R15372; CITY OF ST. CATHARINES

PROPERTY REMARKS:
ESTATE/QUALIFIER:

 FEE SIMPLE
 LT CONVERSION QUALIFIED

RECENTLY:

DIVISION FROM 46179-0128

PIN CREATION DATE:

2020/01/22

OWNERS' NAMES

SMART SUPER MART LTD.

CAPACITY
SHARE

| REG. NUM. | DATE | INSTRUMENT TYPE | AMOUNT | PARTIES FROM | PARTIES TO | CERT/CHKD |
|-------------------------|--|-----------------|-------------|---|-----------------------|-----------|
| ** PRINTOUT | INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) ** | | | | | |
| **SUBJECT, | ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO: | | | | | |
| ** | SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES * | | | | | |
| ** | AND ESCHEATS OR FORFEITURE TO THE CROWN. | | | | | |
| ** | 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. | | | | | |
| ** | ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES. | | | | | |
| **DATE OF CONVERSION TO | LAND TITLES: 2003/09/22 ** | | | | | |
| RO493091 | 1985/03/04 | NOTICE | | | | C |
| | REMARKS: ZONING | REGULATIONS | | | | |
| 30R15372 | 2019/03/18 | PLAN REFERENCE | | | | C |
| NR529711 | 2019/12/11 | NOTICE | | THE CORPORATION OF THE CITY OF ST. CATHARINES | | C |
| NR547085 | 2020/07/22 | NOTICE | | THE REGIONAL MUNICIPALITY OF NIAGARA | | C |
| NR547244 | 2020/07/23 | TRANSFER | \$3,675,000 | 2595543 ONTARIO INC. | SMART SUPER MART LTD. | C |
| | REMARKS: PLANNING ACT STATEMENTS. | | | | | |
| NR547245 | 2020/07/23 | CHARGE | \$2,135,000 | SMART SUPER MART LTD. | ROYAL BANK OF CANADA | C |
| NR647338 | 2023/07/26 | CERTIFICATE | | THE CORPORATION OF THE CITY OF ST. CATHARINES | | C |

CERTIFICATE OF THE TREASURER



Certificate No. **I14098**
 Date of Certificate **June 12, 2024**

50 Church St PO Box 3012
 St. Catharines On L2R7C2
 Email: taxes@stcatharines.ca
 Telephone: (905) 688-5600
 Fax: (905) 688-4077

ISSUED TO **Aimee Newman**
anewman@harrisonpensa.com

REFERENCE **199903**
 ROLL NUMBER **2629.020.025.16500.0000**
 ASSESSED OWNER
SMART SUPER MART LTD

PROPERTY DESCRIPTION

**179 185 ST PAUL ST W ST CATHARINES
 CP 2 PT LOTS 1852 TO 1854 RP 30R15372 PART 2**

**PENALTY/INTEREST OF 1.250 %
 HAS BEEN CALCULATED AS OF THE DATE THIS CERTIFICATE IS ISSUED
 Property is in Tax Sale Process.**

TAX ARREARS
Statement showing arrears of taxes on the above lands.

| YEAR | TAXES LEVIED | TAXES OUTSTANDING | INTEREST | ARREARS OUTSTANDING |
|-------|--------------|-------------------|-----------|---------------------|
| 2023 | 25,551.57 | 31,541.76 | 4,867.58 | 36,409.34 |
| 2022 | 23,695.25 | 26,496.31 | 8,175.37 | 34,671.68 |
| 2021+ | 184,046.58 | 32,493.56 | 14,794.81 | 47,288.37 |

STATEMENT OF CURRENT TAXES

| CURRENT LEVY | | INSTALMENT DUE DATES AND AMOUNTS | | | | CURRENT OUTSTANDING | |
|--------------|-----------|----------------------------------|----------|------------|----------|---------------------|-----------|
| INTERIM | 12,775.79 | 2024/02/29 | 6,388.79 | 2024/04/30 | 6,387.00 | TAX | 26,109.66 |
| FINAL | 13,333.87 | 2024/06/28 | 6,667.87 | 2024/09/27 | 6,666.00 | OTHER CHARGES | 12,112.36 |
| SUPP/ADJ | 0.00 | | | | | PENALTY | 654.46 |
| TOTAL | 26,109.66 | | | | | TOTAL CURRENT | 38,876.48 |

TOTAL OUTSTANDING **157,245.87**

I hereby certify that the above statement shows all arrears of taxes against the above lands.

For The City Treasurer

LOCAL IMPROVEMENTS ASSESSED TO THIS PROPERTY TO DATE INCLUDE

| CODE | DESCRIPTION | AMOUNT | EXPIRY |
|------|-------------|--------|--------|
| | | | |



Certificate No. **I14098**
Date of Certificate **June 12, 2024**

50 Church St PO Box 3012
St. Catharines On L2R7C2
Email: taxes@stcatharines.ca
Telephone: (905) 688-5600
Fax: (905) 688-4077

This statement is issued pursuant to Section 352 of the Municipal Act and is intended to show only the taxes levied for the current year and any unpaid taxes. After the date of this Certificate, the information shown may be affected by:

1. This tax certificate reflects only those charges added to the Tax Roll up to the certificate date and the Municipality will not be responsible for any damage, how so ever caused.
2. The information on this certificate is based on cheques tendered being honored by the bank upon which they are drawn.
3. Properties registered for Tax sale must be paid via certificated cheque or bank draft in full. Please contact the Tax department for more information.
4. Any credit balance appearing on this certificate is not verified. No adjustment will be made unless the credit balance is acknowledged as an overpayment.
5. This certificate does not include proposed Local Improvements for which construction has not been commenced or those which have been constructed but not levied.
6. This certificate will not include arrears charges for water and sewage utilities added to the tax roll subsequent to this notice. Water and Sewer Arrears Certificates for possible charges not shown may be obtained by contacting the City of St. Catharines at 905-688-5600.
7. This certificate may not include any direct services to the property not added to the tax roll at the date of certification for services such as work orders involving weed cutting, property standards charges, and snow or ice removal charges etc.
8. The total taxes may include additions to the Tax Roll as authorized by Provincial Legislation.
9. This certificate is subject to additional taxes, which may be levied pursuant to the provisions of Section 33 and 34 of the Assessment Act R.S.O. 1990 c.A.31.
10. This certificate is subject to adjustments of taxes pursuant to the provision of Section 40 of the Assessment Act R.S.O. 1990 and Sections 354, 357, 358, 361, 362, 363, 364, and 365 of the Municipal Act 2001.
11. Any parcel showing two years in arrears may be in the Tax Sale Registration process, therefore payment may be required in full by certified cheque. Please contact Collections for further details and pending charges.
12. This certificate may not represent all taxes levied against an individual P.I.N., as there may be multiple roll numbers assigned to an individual Property Identification Number registered on title at the Land Registry Office.
13. Pursuant to Section 347 (1) of the Municipal Act, any payment received shall be applied against late payment charges, with the charges imposed earlier being discharged before charges imposed later. The payment then shall be applied against the taxes imposed with the earlier being discharged first.
14. This certificate is subject to apportionments which may be made pursuant to Section 356 of the Municipal Act, 2001.
15. If you have reason to believe that the tax certificate is not correct, please contact the Tax Department 905-688-5600.Revenue-Tax Section

EXHIBIT "C"

ROYAL BANK OF CANADA CREDIT AGREEMENT
DATE: June 28, 2021

| | |
|---|--------------------------|
| BORROWER: SMART SUPER MART LTD. | SRF: 333077030 |
| ADDRESS (Street, City/Town, Province, Postal Code) 213 EDENBROOK HILL DRIVE BRAMPTON, ON L7A 2V4 | |

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 \$1,904,897.07. Repayable by consecutive monthly blended payments of \$14,916.29, including interest, based on a 168 month amortization. Next blended payment is due July 1, 2021. Prior to the first blended payment due date, interest is payable monthly, in arrears, on the same day of each month as determined by the Bank. This loan has a 1 month term and all outstanding principal and interest is payable in full July 23, 2021. Interest rate: 4.12% per annum. Amount eligible for prepayment is NIL.

Facility #1 as described above in the current amount of \$1,904,897.07, which is payable in full on July 23, 2021 (the "Original Facility #1 Maturity Date"), is renewed, subject to the following revised terms and conditions, with effect from and after the Original Facility #1 Maturity Date:

Facility #1 Fixed rate term loan (non-revolving), fully drawn. Repayable by consecutive monthly blended payments of \$14,017.13, including interest, based on a remaining 169 month amortization. First payment is due August 23, 2021. This loan has a 12 month term and all outstanding principal and interest is payable in full July 23, 2022. Interest rate: 3.20% per annum. Amount eligible for prepayment is NIL.

Facility #2 Revolving demand facility in the amount of \$75,000.00, 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 + 2.17% 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

Facility #3 Revolving demand facility in the amount of \$50,000.00, available by way of LCs and/or LGs.

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

Margined: Yes No

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 \$10,000.00.

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:

® Registered trademark of Royal Bank of Canada.

- 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 \$2,135,000.00 signed by the Borrower constituting a first fixed charge on the lands and improvements located at 179 - 185 St. Paul Street West, St. Catharines, ON;
- c) Guarantee and postponement of claim on the Bank's form 812 in the amount of \$2,135,000.00 signed by Ravinder Chohan and Shaina Rathore, supported by a letter of independent legal advice signed by Shaina Rathore;
- d) Guarantee and postponement of claim on the Bank's form 812 in the amount of \$2,135,000.00 signed by Satvinder Chauhan and Baljinder Chauhan, supported by a letter of independent legal advice signed by Baljinder Chauhan;
- e) Postponement and assignment of claim on the Bank's form 918 signed by Satvinder Chauhan;
- f) Postponement and assignment of claim on the Bank's form 918 signed by Ravinderjit Chohan.

FEES

Facility #2 management fee of \$75.00 payable in arrears on the same day each month.

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) annual fuel volume report for the Borrower, within 90 days of each fiscal year end;
- d) such other financial and operating statements and reports as and when the Bank may reasonably require.

OTHER INFORMATION/REQUIREMENTS

- a) In place of the definition of "Debt Service Coverage" contained in "Form 472 (11/2020) Royal Bank of Canada Credit Agreement – Standard Terms" forming part of this Agreement, for the purpose of this Agreement:
 - the term "Debt Service Coverage" shall have the following meaning:
"Debt Service Coverage" means, for any fiscal period, the ratio of EBITDA, less Cash Taxes and, to the extent not deducted in determining net income, less Corporate Distributions, to the total of Interest Expense and scheduled principal payments in respect of Funded Debt; and
 - the term "Cash Taxes" shall have the following meaning:
"Cash Taxes" means, for any fiscal period, any amounts paid in respect of income taxes;

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.

® Registered trademark of Royal Bank of Canada.

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.

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 (10/2017) 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 28, 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: PAULA MANTILLA

® Registered trademark of Royal Bank of Canada.

/hdc

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 12 day of July, 2021.

SMART SUPER MART LTD.

Per: R. Chahal
Name: RAVINDER JIT SINGH CHAHAL
Title: PRESIDENT

Per: S. Chahal
Name: SATVINDER KAUR CHAHAL
Title: VICE PRESIDENT

I/We have the authority to bind the Borrower

® Registered trademark of Royal Bank of Canada.

ROYAL BANK OF CANADA AMENDING AGREEMENT

DATE: January 19, 2022

| | |
|---|---------------------------------|
| BORROWER: SMART SUPER MART LTD. | SRF: 333077030 |
| ADDRESS (Street, City/Town, Province, Postal Code) 213 EDENBROOK HILL DRIVE BRAMPTON, ON L7A 2V4 | |

Royal Bank of Canada (the “**Bank**”) hereby confirms to the undersigned borrower (the “**Borrower**”) the following amendments to the credit agreement dated June 28, 2021, and any previous amendments thereto, between the Borrower and the Bank (the “**Agreement**”):

1. Under the Fees section of the Agreement, the following fee is added:

Annual administration fee of \$1,000.00 payable on each anniversary of this Agreement, or at such times as may be agreed upon between the Borrower and the Bank. The administration fee(s) do not and shall not in any way obligate the Bank to grant, continue, renew or extend the facilities or any other credit or indebtedness.

OTHER TERMS AND CONDITIONS

- a) All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement; and
- b) All other terms and conditions of the Agreement including those contained in the standard terms provided therewith, remain in full force and effect.

STANDARD TERMS

In addition to the standard terms previously provided to the Borrower as indicated in the Agreement, the following standard terms, if indicated in the boxes below, are being 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

The Borrower and the Bank waive any requirement for the amendments set out above to be signed by the Borrower. The Borrower is deemed to agree to the amendments set out above and to the new or amended standard terms, if provided, so taking effect by accessing credit, borrowing or continuing to borrow under the Credit Facilities. The above amendments and the new or amended standard terms, if applicable, take effect as of the date of this amending agreement.

ROYAL BANK OF CANADA



Per: _____
 Title: Vice President

RBC Contact: PAULA MANTILLA

/mh

® Registered trademark of Royal Bank of Canada.

ROYAL BANK OF CANADA AMENDING AGREEMENT

DATE: November 2, 2022

| | |
|--|---------------------------------|
| BORROWER: SMART SUPER MART LTD. | SRF: 333077030 |
| ADDRESS (Street, City/Town, Province, Postal Code) 213 Edenbrook Hill Drive Brampton, ON L7A2V4 | |

Royal Bank of Canada (the “**Bank**”) hereby confirms to the undersigned borrower (the “**Borrower**”) the following amendments to the credit agreement dated June 28, 2021, and any previous amendments thereto, between the Borrower and the Bank (the “**Agreement**”):

1. Under the Credit Facilities section of the Agreement, Facility #1 is amended and restated as follows:

Facility #1 Fixed rate term loan (non-revolving) in the amount of \$1,769,033.64. Repayable by consecutive monthly blended payments of \$16,936.39, including interest, based on a 153 month amortization. Next blended payment is due November 23, 2022. This loan has a 21 month term and all outstanding principal and interest is payable in full July 23, 2024. Interest rate: 6.38% per annum. Amount eligible for prepayment is NIL.

RENEWAL FEE

A non-refundable renewal fee of \$1,000.00 is payable by the Borrower when the amendments set out in this letter become effective.

OTHER TERMS AND CONDITIONS

- a) All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement; and
- b) All other terms and conditions of the Agreement including those contained in the standard terms provided therewith, remain in full force and effect.

STANDARD TERMS

In addition to the standard terms previously provided to the Borrower as indicated in the Agreement, the following standard terms, if indicated in the boxes below, are being provided to the Borrower:

Form 472 (09/2022) 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

The Borrower and the Bank waive any requirement for the amendments set out above to be signed by the Borrower. The Borrower is deemed to agree to the amendments set out above and to the new or amended standard terms, if provided, so taking effect by accessing credit, borrowing or continuing to borrow under the Credit Facilities. The above amendments and the new or amended standard terms, if applicable, take effect as of the date of this amending agreement.

ROYAL BANK OF CANADA

Per: 

® Registered trademark of Royal Bank of Canada.

Title: Vice President

RBC Contact: Arif Imran

/rc

EXHIBIT "D"



**Royal Bank of Canada
General Security Agreement**

SRF:
333077030

BORROWER:
SMART SUPER MART LTD.

BRANCH ADDRESS:
100 KING ST W-8TH FLR
STELCO TOWER
HAMILTON, ON
L8P 1A2

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 Debtor and in all proceeds and renewals thereof, accretions thereto and substitutions therefore (hereinafter or repossessed by Debtor) and in all 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.

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 the 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

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, trademarks, 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:

- 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 nominee(s) 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 nominee(s) 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 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 unappropriated 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 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-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 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.

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 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 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 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).

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

BUSINESS DEBTOR

| | | | |
|----------------------------|----------|----------|-------------|
| NAME OF BUSINESS DEBTOR | | | |
| SMART SUPER MART LTD. | | | |
| ADDRESS OF BUSINESS DEBTOR | CITY | PROVINCE | POSTAL CODE |
| 213 EDENBROOK HILL DR | BRAMPTON | ON | L7A 2V4 |

IN WITNESS WHEREOF executed this 11 day of Jan 2020


SMART SUPER MART LTD.




SCHEDULE "A"

(ENCUMBRANCES AFFECTING COLLATERAL)

SCHEDULE "B"

1. Locations of Debtor's Business Operations

213 EDENBROOK HILL DR

BRAMPTON

ON

CA

L7A 2V4

2. Locations of Records relating to Collateral (if different from 1. above)

3. Locations of Collateral (if different from 1. above)

SCHEDULE "C"

(DESCRIPTION OF PROPERTY)

EXHIBIT "E"

Properties

PIN 46179 - 0340 LT *Interest/Estate* Fee Simple
Description PART LOTS 1852-1854 CP PL 2 GRANTHAM, DESIGNATED AS PART 2 30R15372;
 CITY OF ST. CATHARINES
Address 179 ST PAUL STREET WEST
 ST. CATHARINES

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 SMART SUPER MART LTD.
Address for Service 213 Edenbrook Hill Drive, Brampton,
 Ontario L7A 2V4

I, Ravinderjit Singh Chohan, President, 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

Provisions

Principal \$2,135,000.00 *Currency* CDN
Calculation Period
Balance Due Date
Interest Rate Prime plus 5% per annum
Payments
Interest Adjustment Date
Payment Date
First Payment Date
Last Payment Date
Standard Charge Terms 20015
Insurance Amount Full insurable value
Guarantor

Signed By

| | | | | |
|-------------------------|--|--------------------------|--------|------------|
| Andrea Margaret Remnant | 201 County Court Blvd. Ste. 200 Brampton L6W 4L2 | acting for Chargor(s) | Signed | 2020 07 23 |
| Tel | 905-457-1660 | | | |
| Fax | 905-457-5641 | | | |

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

Submitted By

| | | |
|-----------------------|--|------------|
| SIMMONS, DA SILVA LLP | 201 County Court Blvd. Ste. 200 Brampton L6W 4L2 | 2020 07 23 |
| Tel | 905-457-1660 | |
| Fax | 905-457-5641 | |

Fees/Taxes/Payment

| | |
|----------------------------|---------|
| Statutory Registration Fee | \$65.05 |
| Total Paid | \$65.05 |

File Number

Chargee Client File Number : SSML003

EXHIBIT "F"

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

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

(f) That the taking of judgement 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 judgement 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") levied against the Charged Premises, it is agreed that the taxes relating to the Charged Premises shall be paid by the Chargor and the Chargee shall not be liable for the payment of any taxes.

(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 let, 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

(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 obliged 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.C.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.

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 fallntrees 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 encumbrancers 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 provisos 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 distrain 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 distrain for arrears of principal and monthly payments of taxes, if required, in the same manner as if the same were arrears of interest.

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.

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, an 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 of 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 Tena 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, lessing, collecting the rents of, and managing generally the Charged Premises.

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

(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

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:

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(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:

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.

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. CHARGEES 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 _____, _____.

The Guarantor(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 Guarantor (s)]

EXHIBIT "G"

Enquiry Result

File Currency: 25JUN 2024



All Pages

[Show All Pages](#)**Note: All pages have been returned.**

| Type of Search | Business Debtor | | | | | | |
|---------------------|-----------------------|--------|-------------|------|----------|-------------|--------|
| Search Conducted On | SMART SUPER MART LTD. | | | | | | |
| File Currency | 25JUN 2024 | | | | | | |
| | File Number | Family | of Families | Page | of Pages | Expiry Date | Status |
| | 758898387 | 1 | 2 | 1 | 2 | 27DEC 2024 | |

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

| File Number | Caution Filing | Page of | Total Pages | Motor Vehicle Schedule | Registration Number | Registered Under | Registration Period |
|-------------|----------------|---------|-------------|------------------------|-------------------------|------------------|---------------------|
| 758898387 | | 01 | 001 | | 20191227 1446 1530 8046 | P PPSA | 5 |

| | | | | | |
|-------------------|--------------------------|------------------|----------|----------|----------------------------|
| Individual Debtor | Date of Birth | First Given Name | Initial | Surname | |
| | | | | | |
| Business Debtor | Business Debtor Name | | | | Ontario Corporation Number |
| | SMART SUPER MART LTD. | | | | |
| | Address | | City | Province | Postal Code |
| | 213 EDENBROOK HILL DRIVE | | BRAMPTON | ON | L7A 2V4 |

| | | | | | |
|-------------------|--------------------------|------------------|----------|----------|----------------------------|
| Individual Debtor | Date of Birth | First Given Name | Initial | Surname | |
| | | | | | |
| Business Debtor | Business Debtor Name | | | | Ontario Corporation Number |
| | SMART SUPER MART LTD. | | | | |
| | Address | | City | Province | Postal Code |
| | 213 EDENBROOK HILL DRIVE | | BRAMPTON | ON | L7A 2V4 |

| | | | | | |
|---------------|-------------------------------|--|---------|----------|-------------|
| Secured Party | Secured Party / Lien Claimant | | | | |
| | ROYAL BANK OF CANADA | | | | |
| | Address | | City | Province | Postal Code |
| | 36 YORK MILLS ROAD, 4TH FLOOR | | TORONTO | ON | M2P 0A4 |

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

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

| | | | | | |
|--------------------------------|--------------------------------|--|--|--|--|
| General Collateral Description | General Collateral Description | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

| Registering Agent | Registering Agent | | |
|---------------------|--|----------|-------------|
| | CANADIAN SECURITIES REGISTRATION SYSTEMS | | |
| Address | City | Province | Postal Code |
| 4126 NORLAND AVENUE | BURNABY | BC | V5G 3S8 |

END OF FAMILY

| Type of Search | Business Debtor | | | | | | |
|---------------------|-----------------------|--------|-------------|------|----------|-------------|--------|
| Search Conducted On | SMART SUPER MART LTD. | | | | | | |
| File Currency | 25JUN 2024 | | | | | | |
| | File Number | Family | of Families | Page | of Pages | Expiry Date | Status |
| | 789170067 | 2 | 2 | 2 | 2 | 09DEC 2028 | |

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

| File Number | Caution Filing | Page of | Total Pages | Motor Vehicle Schedule | Registration Number | Registered Under | Registration Period |
|-------------|----------------|---------|-------------|------------------------|-------------------------|------------------|---------------------|
| 789170067 | | 001 | 1 | | 20221209 0847 5064 5124 | P PPSA | 06 |

| | | | | | | |
|-------------------|--------------------------|------------------|---------|----------------------------|----------|-------------|
| Individual Debtor | Date of Birth | First Given Name | Initial | Surname | | |
| | | | | | | |
| Business Debtor | Business Debtor Name | | | Ontario Corporation Number | | |
| | SMART SUPER MART LTD. | | | | | |
| | Address | | | City | Province | Postal Code |
| | 213 EDENBROOK HILL DRIVE | | | BRAMPTON | ON | L7A 2V4 |

| | | | | | | |
|-------------------|--------------------------|------------------|---------|----------------------------|----------|-------------|
| Individual Debtor | Date of Birth | First Given Name | Initial | Surname | | |
| | 18MAY1972 | RAVINDERJIT | S | | | |
| Business Debtor | Business Debtor Name | | | Ontario Corporation Number | | |
| | | | | | | |
| | Address | | | City | Province | Postal Code |
| | 213 EDENBROOK HILL DRIVE | | | BRAMPTON | ON | L7A 2V4 |

| | | | | | | |
|---------------|-------------------------------|--|--|--|-------------|----------|
| Secured Party | Secured Party / Lien Claimant | | | | | |
| | NISSAN CANADA INC. | | | | | |
| | Address | | | | City | Province |
| | 5290 ORBITOR DRIVE | | | | MISSISSAUGA | ON |
| | | | | | L4W 4Z5 | |

| | | | | | | | | | |
|---------------------------|----------------|-----------|-----------|----------|-------|------------------------|--------|---------------------|------------------------|
| Collateral Classification | Consumer Goods | Inventory | Equipment | Accounts | Other | Motor Vehicle Included | Amount | Date of Maturity or | No Fixed Maturity Date |
| | X | | | | X | X | 39665 | 27NOV2028 | |

| | | | | | | |
|---------------------------|------|--------|-------|-------------------|--|--|
| Motor Vehicle Description | Year | Make | Model | V.I.N. | | |
| | 2021 | NISSAN | ROGUE | 5N1AT3ABXMC838128 | | |
| | | | | | | |

| | | | | | | |
|--------------------------------|--------------------------------|--|--|--|--|--|
| General Collateral Description | General Collateral Description | | | | | |
| | | | | | | |
| | | | | | | |

| | | | | | | |
|-------------------|---------------------------------|--|---------|----------|-------------|--|
| Registering Agent | Registering Agent | | | | | |
| | ESC CORPORATE SERVICES LTD. | | | | | |
| | Address | | City | Province | Postal Code | |
| | 445 KING STREET WEST, SUITE 400 | | TORONTO | ON | M5V 1K4 | |

LAST PAGE

Note: All pages have been returned.

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EXHIBIT "H"



RBC Royal Bank

October 20, 2023

Smart Super Mart Ltd.
213 Edenbrook Hill Drive
Brampton, ON
L7A 2V4

Dear Sirs/Mesdames:

Your Credit Facilities with Royal Bank of Canada

We are writing with reference to your above credit facilities as set out in the Credit Agreement dated June 28, 2021 (the "Agreement").

Our recent review reveals that you are in default of the following covenant(s) under the terms of the Agreement for the fiscal period ended May 31, 2023:

"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."

According to our records, the Bank has yet to receive the aforementioned document(s).

The default is not acceptable and we require you to remedy the foregoing default prior to November 13, 2023.

We retain all rights arising out of the default and reserve the right to demand payment of borrowings outstanding under the credit facilities if such default is not remedied by such date or if another breach of the Agreement should occur.

If you have any questions about your credit facilities or would like clarification of any of the above matters, please contact us immediately at the contact number provided below.

Yours truly,

Muhammad Khan
Commercial Account Manager
Tel: (365) 822-3998

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EXHIBIT "I"

KAUR LAW

PROFESSIONAL CORPORATION

2575 Steeles Avenue East, Unit 01

Brampton, Ontario L6T 5T1

Telephone: (905) 454-0099

Facsimile: (905) 454-2234

January 02,2023

ROYAL BANK OF CANADA
36 York Mills Road, 4th Floor,
Toronto, Ontario M2P 0A4

Attention: Mortgage Information Statements

Dear Sir or Madam:

Re: SMART SUPER MART LTD. And Royal Bank of Canada
179 St Paul Street West, St. Catharines, ON
Loan Number: 47647962-002
My File No.: 246378

I, Manjeet Kaur, am the solicitor acting on behalf of SMART SUPER MART LTD. being the mortgagor referred to above. My client is arranging a new second mortgage on the above-noted property with a closing date scheduled for January 03,2023.

Would you therefore provide my office with a mortgage statement for information purposes:

1. confirming the essential terms of the mortgage.
2. setting out all amounts outstanding under the mortgage as at such date on account of principal, interest, tax account and otherwise; and
3. verifying that the mortgage is in current standing.

Kindly provide the statement to my office as soon as possible.

Yours very truly,

Manjeet Kaur

MK:gkb

Properties

PIN 46179 - 0340 LT **Interest/Estate** Fee Simple
Description PART LOTS 1852-1854 CP PL 2 GRANTHAM, DESIGNATED AS PART 2 30R15372;
Address 179 ST PAUL STREET WEST
ST. CATHARINES

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 SMART SUPER MART LTD.
Address for Service 213 Edenbrook Hill Drive, Brampton,
Ontario L7A 2V4
I, Ravinderjit Singh Chohan, President, 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

Provisions

Principal \$2,135,000.00 **Currency** CDN
Calculation Period
Balance Due Date
Interest Rate Prime plus 5% per annum
Payments
Interest Adjustment Date
Payment Date
First Payment Date
Last Payment Date
Standard Charge Terms 20015
Insurance Amount Full insurable value
Guarantor

Signed By

Andrea Margaret Remnant 201 County Court Blvd. Ste. 200 acting for
Brampton Chargor(s)
L6W 4L2

Tel 905-457-1660

Fax 905-457-5641

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

Submitted By

SIMMONS, DA SILVA LLP 201 County Court Blvd. Ste. 200 2020 07 23
Brampton
L6W 4L2

Tel 905-457-1660

Fax 905-457-5641

Fees/Taxes/Payment

Statutory Registration Fee \$65.05
Total Paid \$65.05

File Number

Chargee Client File Number : SSML003

EXHIBIT "J"

From: Tim Hogan <thogan@harrisonpensa.com>
Sent: Tuesday, January 9, 2024 7:40 AM
To: kaur@kaurlaw.com
Cc: realestate@kaurlaw.com; McInnes, Craig
Subject: Royal Bank of Canada ("RBC") and SMART SUPER MART LTD. (the "Borrower") [IWOV-HPMain.FID738134]
Attachments: mortgage information statement request.pdf; Smart Super Mart Ltd .pdf

Counsel

We write to respond to your attached letter of January 2, 2024 as counsel to RBC.

Can you please advise the purpose of the request for information, noting that the Borrower is not permitted to further encumber its assets under the terms of the RBC credit facility.

We can advise that the Borrower's credit facility with RBC is not in good standing and is in default due to and not limited to the following:

1. Reporting defaults, see attached letter dated October 20, 2023 from RBC to the Borrower
2. Payment arrears
3. Realty Tax arrears

The Borrower has not been responsive to the Bank regarding the Bank's request for a meeting.

The Bank does have substantial concerns as to the continued provision of credit and banking services to the Borrower.

Are you available for a call to discuss this matter?

Please advise.

Tim Hogan | [HARRISON PENSA LLP](#) | [130 Dufferin Avenue, Suite 1101, London, ON N6A 5R2](#) | *tel/* 519-661-6743 | *fax* 519-667-3362 | thogan@harrisonpensa.com Assistant | Aimee Newman | *tel/* 519-850-5568 | anewman@harrisonpensa.com

This e-mail may contain information that is privileged or confidential. If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately

EXHIBIT "K"

From: Tim Hogan
Sent: Friday, January 19, 2024 9:26 AM
To: kaur@kaurlaw.com
Cc: Mcinnes, Craig
Subject: RBC and Smart Super Mart Ltd. (the "Borrower") [IWOV-HPMain.FID738134]
Attachments: mortgage information statement request.pdf; SMART Notice of Regn St Catharines.pdf; 46179-0340.PDF; CRA My Business Account - Overview.pdf

Manjeet

We are the lawyers for RBC in the above noted matter.

As requested, below please find a statement of debt (not including Bank legal fees incurred on a full indemnity basis) on an information (E &OE) basis as at January 5, 2024:

| Facility | Principal | Accrued Interest | Insurance | Total | Per Diem |
|--|-----------------|------------------|-----------|-----------------|----------|
| Term Loan 07512 - 47647962 - 002 | \$ 1,697,368.93 | \$ - | \$ - | \$ 1,697,368.93 | \$ - |
| Revolving Demand Loan 07512 - 47647962 - 001 | \$ 75,000.00 | \$ - | \$ - | \$ 75,000.00 | \$ - |
| Visas | \$ 11,841.97 | \$ - | \$ - | \$ 11,841.97 | \$ - |
| Letter of Credit | \$ 50,000.00 | | | | |

We confirm the Borrower's request to place a second charge over the property known municipally as 179 St. Paul Street West St. Catherines (PIN attached) (the "Property").

Please be advised that despite the defaults of this Borrower under the terms of credit advanced by RBC, the Bank is willing to permit this second charge to be registered and waive the corresponding default, subject to the following terms:

1. The Bank is advised and agreed to the quantum advanced by the new lender and secured under the second charge
2. The second charge is postponed to the Bank's first charge
3. As a condition precedent, that the Borrower provide evidence that it is current on filings and remittances with CRA for HST and employee source deductions by providing a screenshot of its most current Overview – sample attached.
4. The funds under the second charge are advanced to your firm and your firm undertakes to make the following payments:
 - a. A payment to the City of St. Catherines to pay in full all realty taxes owing against the Property and to ensure that the attached Notice of Registration of Tax Arrears Certificate (registered as instrument NR647338) is deleted from title to the Property
 - b. To pay all arrears owing under the credit facility (November and December 2023 payments are in arrears).
 - c. To pay the fees of Harrison Pensa as counsel to RBC
 - d. Potentially a payment to CRA to bring all HST and employee source deduction account current.

This offer is made with the Bank not waiving and expressly preserving all rights in relation to the defaults under the credit facility with the Bank.

Please confirm receipt of this e-mail and advise if you have any questions.

Thank-you.

Tim Hogan | [HARRISON PENSA LLP](#) | [130 Dufferin Avenue, Suite 1101, London, ON N6A 5R2](#) | *tel* 519-661-6743
| *fax* 519-667-3362 | thogan@harrisonpensa.com Assistant | Aimee Newman | *tel* 519-850-5568 |
anewman@harrisonpensa.com

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EXHIBIT "L"

From: Tim Hogan <thogan@harrisonpensa.com>
Sent: Friday, March 15, 2024 11:52 AM
To: Manjeet Kaur <kaur@kaurlaw.com>
Cc: Mcinnes, Craig <craig.mcinnes@rbccom>
Subject: FW: RBC and Smart Super Mart Ltd. (the "Borrower") [IWOV-HPMain.FID738134]
Importance: High

Manjeet

We understand that the Borrower paid the Bank the sum of \$100,000, which certain proceeds were used by the Bank to bring the below noted term loan current.

We do not record a response to the below e-mail, and would ask that you confirm:

1. The status the borrower's realty tax account ? Has the Tax Certificate been deleted from title?
2. The status the borrower's accounts with CRA?
3. The status of subordinate financing?

Please confirm receipt of this e-mail.

Thank-you.

Tim Hogan | HARRISON PENSA LLP | 130 Dufferin Avenue, Suite 1101, London, ON N6A 5R2 | *tel* 519-661-6743 | *fax* 519-667-3362 | thogan@harrisonpensa.com Assistant | Aimee Newman | *tel* 519-850-5568 | anewman@harrisonpensa.com

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EXHIBIT "M"

From: Manjeet Kaur <kaur@kaurlaw.com>
Sent: Friday, March 15, 2024 12:22 PM
To: Tim Hogan
Cc: Mcinnes, Craig; Realestate
Subject: RE: RBC and Smart Super Mart Ltd. (the "Borrower") [IWOV-HPMain.FID738134]

[EXTERNAL EMAIL]

Tim,

I will find out and advise you accordingly.

Thank you.

Regards,

**Manjeet Kaur
Barrister, Solicitor & Notary Public**

KAUR LAW

PROFESSIONAL CORPORATION

"WE SIMPLIFY THE COMPLEX"

OFFICE LOCATION:

2575 Steeles Ave. East., Unit 1
Brampton, Ontario, L6T 5T1
(Main intersection is Torbram and Steeles)
TEL: 905 454 0099
FAX: 905 454 2234

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EXHIBIT "N"

From: Tim Hogan
Sent: Friday, March 15, 2024 12:49 PM
To: Manjeet Kaur
Cc: Mcinnes, Craig; Realestate
Subject: RE: RBC and Smart Super Mart Ltd. (the "Borrower") [IWOV-HPMain.FID738134]
Attachments: 46179-0340 mar 15.PDF

Hi Manjeet

We pulled a fresh abstract, City Tax Lien still on title allowing for a tax sale in July 2024.

This will have to be dealt with and is a major default/concern.

Tim Hogan | [HARRISON PENSA LLP](#) | [130 Dufferin Avenue, Suite 1101, London, ON N6A 5R2](#) | *tel/ 519-661-6743*
| *fax 519-667-3362* | thogan@harrisonpensa.com *Assistant* | Aimee Newman | *tel/ 519-850-5568* |
anewman@harrisonpensa.com

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EXHIBIT "O"

MAY 22 2024

FINAL NOTICE

THE CORPORATION OF THE CITY OF ST. CATHARINES

To: ROYAL BANK OF CANADA
 Address: 36 YORK MILLS ROAD
 4TH FLOOR
 TORONTO ON M2P 0A4

NASC23-21

Regarding property located at:
 179-185 ST. PAUL ST. W
 ST. CATHARINES ON L2S 2C8

Re: PIN: 46179-0340 (LT)
 PART LOTS 1852-1854 CP PL 2 GRANTHAM, DESIGNATED AS PART 2 30R15372; CITY OF ST. CATHARINES

1. You are hereby notified, as a person to whom a notice of registration of a tax arrears certificate against the land described above was sent, that the cancellation price remains unpaid and that there is no subsisting extension agreement.
2. The land will be advertised for public sale unless the cancellation price is paid or an extension agreement is entered into before July 26, 2024.
3. The treasurer has no obligation to inquire into or form any opinion of the value of the land before conducting a sale under the *Municipal Act, 2001* and the treasurer is not under any duty to obtain the highest or best price for the land.
4. Inquiries related to the matters set out in this notice may be directed to:

Title
 Kim Ashfield, Acting Revenue Supervisor 905-688-5601 Ext. 1414
 Please quote Roll No. 26 29 020 025 16500 0000

Name of Municipality or Board

The Corporation of the City of St. Catharines

Address of Municipality or Board

50 Church Street
 P.O. Box 3012
 St. Catharines ON L2R 7C2

Dated at The Corporation of the City of St. Catharines on 10 May 2024

Kristine Douglas

Director of Financial Management Services/Treasurer

Title

Signature of Treasurer or Other Officer or
 Employee Authorized to Give this Notice

Personal Information contained on this form, collected pursuant to the *Municipal Act, 2001* and Regulations thereunder, will be used for the purposes of that Act. Questions should be directed to the Freedom of Information and Privacy Coordinator at the institution responsible for the procedures under that Act.

Note: This document need not be registered.

S.O. 2001, c. 25, O. Reg. 181/03 MTSR

EXHIBIT "P"

Harrison Pensa

LAWYERS

Timothy C. Hogan

Direct Line: (519)-661-6743
thogan@harrisonpensa.com

Assistant: Emma Benaway

Direct Line: (226) 797-4842
ebenaway@harrisonpensa.com

June 20, 2024

Via Registered & Regular Mail & E-mail – rickchohan72@gmail.com & smartsupermartltd@gmail.com

Smart Super Mart Ltd.
213 Edenbrook Hill Drive
Brampton, ON L7A 2V4

Dear Sir/Ma'am,

**Re: Indebtedness of Smart Super Mart Ltd. to Royal Bank of Canada (the "Bank")
Our File No. 199903**

We are the solicitors for the Bank with respect to loans provided to Smart Super Mart Ltd. (hereinafter the "**Debtor**").

According to the Bank's records, the Debtor is indebted to the Bank as at June 17, 2024, in the total sum of \$1,717,509.33, including all interest to June 17, 2024, plus all accruing interest, and plus the Bank's costs of enforcement on a solicitor and client basis (the "**Indebtedness**").

The Indebtedness is comprised of the following:

| | |
|---------------------------|---|
| Term Loan (ending in 002) | Principal: \$1,618,638.27 Interest: \$7,073.23 Total: \$1,625,711.50 (per diem \$282.93) |
| Letter of Credit | \$50,000.00 |

Harrison Pensa LLP

130 Dufferin Avenue, Suite 1101, P.O. Box 3237, London, Ontario N6A 4K3 Phone: 519.679.9660 Fax: 519.667.3362
harrisonpensa.com

| | |
|---|--|
| Demand Loan (ending in 001) (number subject to change) | Principal: \$75,000.00 Interest: \$398.68 Total: \$75,398.68 (per diem \$18.74) |
| Visa (number subject to change) | \$11,751.39 |
| Legal Fees as of May 15, 2024 | \$4,647.76 |
| TOTAL | \$1,767,509.33 |

The Debtor is in default of certain agreements signed in favour of the Bank including, but not limited to, the following:

1. Royal Bank of Canada Credit Agreement dated June 28, 2021, and amended by Amending Agreements dated January 19, 2022, and November 2, 2022;
2. General Security Agreement dated January 11, 2020; and,
3. Charge/Mortgage of Land in the principal sum of \$2,135,000.00 and receipted as instrument number NR547245 on July 23, 2020, over the property, municipally known as 179-185 St. Paul Street West, St. Catharines, ON, legally described as:
 - a. PART LOTS 1852-1854 CP PL 2 GRANTHAM, DESIGNATED AS PART 2 30R15372; CITY OF ST CATHARINES (PIN 46179-0340 (LT)).

On behalf of the Bank, we hereby demand payment of the Indebtedness owing by the Debtor together with interest thereon and all costs to the date of payment.

Failing payment within ten (10) days will result in the Bank taking such steps as it considers necessary or appropriate to recover payment of the Debtor's Indebtedness and to protect its interest.

We advise that no intermediate acts, negotiations, indulgences, acceptance of payments or any continuing credit or provision of banking services shall act as a waiver to the Bank's rights, or demand for payment as set out herein, unless so expressly stated in writing.

The Bank expressly reserves its rights to take such further steps to protect its interest at any time, without further notice to the Debtor, if the Bank becomes aware of any matter which may impair its security. In addition, the Bank reserves the right to restrict or cancel all facilities at any time with no further notice and to restrict the operation of any bank account(s) including placing same on deposit only.

Finally, also find attached to this letter our client's Notice of Intention to Enforce Security as well as the relevant consent to immediate enforcement of the Bank's security. By signing this consent, the Debtor waives the time period given by the Bank under this notice.

Yours truly,

HARRISON PENSA LLP

A handwritten signature in black ink, appearing to read "TCH".

Timothy C. Hogan
TCH/emb
Enclosure

Cc: Ravinder Singh Cohan, Shaina Rathore, Satvinder Kaur Chahuan and Baljinder Chauhan, as guarantor

NOTICE OF INTENTION TO ENFORCE SECURITY
(Section 244(1) of the *Bankruptcy and Insolvency Act*)

TO: Smart Super Mart Ltd., an insolvent person

TAKE NOTICE THAT:

1. Royal Bank of Canada, a secured creditor, intends to enforce its security on the property of the insolvent person described as:

All collateral of the insolvent person as described in the following security and the proceeds from the sale of said collateral:

- a. General Security Agreement dated January 11, 2020; and,
- b. Charge/Mortgage of Land in the principal sum of \$2,135,000.00 and receipted as instrument number NR547245 on July 23, 2020, over the property, municipally known as 179-185 St. Paul Street West, St. Catharines, ON, legally described as:
 - I. PART LOTS 1852-1854 CP PL 2 GRANTHAM, DESIGNATED AS PART 2 30R15372; CITY OF ST CATHARINES (PIN 46179-0340 (LT)) (the "Property").

The property to which the security relates includes all real property and assets, including and not limited to, all book debts, rents, inventory, and all attachments, fixtures, and equipment wherever located, all securities, cash and all real property and all other collateral however described of the above-noted insolvent person, including but not limited to all assets leased to the above-noted insolvent person, and the proceeds thereof.

2. The security that is to be enforced is in the form of:

- a. General Security Agreement dated January 11, 2020; and,
- b. Charge/Mortgage of Land in the principal sum of \$2,135,000.00 and receipted as instrument number NR547245 on July 23, 2020, over the Property.

3. The total amount of indebtedness secured by the security is \$1,767,509.33 as at June 17, 2024, plus interest as set out in the agreements and plus the Bank's solicitor and client and professional costs on a full indemnity basis.

4. The secured creditor will not have the right to enforce its 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 London, Ontario this 20th day of June, 2024.

ROYAL BANK OF CANADA
by its solicitors, Harrison Pensa LLP



Per: _____
TIMOTHY C. HOGAN
Harrison Pensa LLP
130 Dufferin Avenue, Suite 1101
London, ON N6A 4K3
(519) 661-6743

Note: This Notice is given for precautionary purposes only and there is no acknowledgement that any person to whom this Notice is delivered is insolvent, or that the provisions of the *Bankruptcy and Insolvency Act* apply to the enforcement of this security.

CONSENT
(s.244(2) of the *Bankruptcy and Insolvency Act*)

THE UNDERSIGNED hereby acknowledges receipt of a copy of Royal Bank of Canada's demand dated June 20, 2024, and the Notice of Intention to Enforce Security dated June 20, 2024, pursuant to s.244(1) of the *Bankruptcy and Insolvency Act* and hereby waives the 10 day period set out in the demand and notice and consents to the immediate enforcement Royal Bank of Canada's security.

DATED at , Ontario this day of June, 2024.

SMART SUPER MART LTD.

Per: _____
I have authority to bind the corporation

DATED at , Ontario this day of June, 2024.

Witness

Ravinder Singh Cohan

Witness

Shaina Rathore

Witness

Satvinder Kaur Chahuan

Witness

Baljinder Chauhan

Timothy C. Hogan
Direct Line: (519)-661-6743
thogan@harrisonpensa.com

Assistant: Emma Benaway
Direct Line: (226) 797-4842
ebenaway@harrisonpensa.com

June 20, 2024

Via Registered & Regular Mail & E-mail – smartsupermartltd@gmail.com

Satvinder Kaur Chahuan
36 Parity Road
Brampton, ON L6X 5M5

Baljinder Chauhan
36 Parity Road
Brampton, ON L6X 5M5

Dear Satvinder and Baljinder,

**Re: Indebtedness of Smart Super Mart Ltd. to Royal Bank of Canada (the "Bank")
Our File No. 199903**

We are the solicitors for the Bank with respect to loans provided to Smart Super Mart Ltd. (hereinafter the "**Debtor**").

According to the Bank's records, Smart Super Mart Ltd. is indebted to the Bank in the amount of \$1,767,509.33 as of June 17, 2024, together with accruing interest thereon, and the Bank's continuing costs of enforcement on a solicitor and client basis.

Pursuant to a guarantee executed by both of you on January 11, 2020, with respect to Smart Super Mart Ltd., limited to the sum of \$2,135,000.00, you are jointly and severally liable to pay the amount of the guarantee being \$1,767,509.33, together with accruing interest thereon and the Bank's continuing costs of enforcement (the "**Indebtedness**").

On behalf of the Bank, we hereby demand payment of the Indebtedness totaling \$1,767,509.33, together with interest thereon and all costs to the date of payment.

Failing to make payment within ten (10) days will result in the Bank taking such steps as it considers necessary or appropriate to recover payment of the Indebtedness and to protect its interest.

Harrison Pensa LLP

We advise that no intermediate acts, negotiations or indulgences shall act as a waiver to the Bank's rights, or demand for payment as set out herein, unless so expressly stated in writing.

Yours truly,

HARRISON PENSA LLP

A handwritten signature in black ink, appearing to read "TCH".

Timothy C. Hogan
TCH/emb

Timothy C. Hogan
Direct Line: (519)-661-6743
thogan@harrisonpensa.com

Assistant: Emma Benaway
Direct Line: (226) 797-4842
ebenaway@harrisonpensa.com

June 20, 2024

Via Registered & Regular Mail & E-mail – rickchohan72@gmail.com

Ravinder Singh Chohan
213 Edenbrook Hill Drive
Brampton, ON L7A 2V4

Shaina Rathore
213 Edenbrook Hill Drive
Brampton, ON L7A 2V4

Dear Ravinder and Shaina,

**Re: Indebtedness of Smart Super Mart Ltd. to Royal Bank of Canada (the "Bank")
Our File No. 199903**

We are the solicitors for the Bank with respect to loans provided to Smart Super Mart Ltd. (hereinafter the "**Debtor**").

According to the Bank's records, Smart Super Mart Ltd. is indebted to the Bank in the amount of \$1,767,509.33 as of June 17, 2024, together with accruing interest thereon, and the Bank's continuing costs of enforcement on a solicitor and client basis.

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Failing to make payment within ten (10) days will result in the Bank taking such steps as it considers necessary or appropriate to recover payment of the Indebtedness and to protect its interest.

Harrison Pensa LLP

We advise that no intermediate acts, negotiations or indulgences shall act as a waiver to the Bank's rights, or demand for payment as set out herein, unless so expressly stated in writing.

Yours truly,

HARRISON PENSA LLP

A handwritten signature in black ink, appearing to read "TCH".

Timothy C. Hogan
TCH/emb

EXHIBIT "Q"

From: Satvinder chauhan <smartsupermartltd@gmail.com>
Sent: Friday, June 21, 2024 3:35 PM
To: Emma Benaway
Cc: Tim Hogan
Subject: Re: Indebtedness of Smart Super Mart Ltd. to Royal Bank of Canada [IMAN-HPMAIN.FID645206]

[EXTERNAL EMAIL]

Hi Tim/Emma,

I am writing to request an extension of at least one month for Smart Super Mart Ltd. At present mortgage payments are paid in full and no payment is due. Our business is currently facing significant challenges. The overall economic climate is tough, and recent city construction projects have severely impacted our operations, reducing customer traffic and sales.

Given these unprecedented circumstances, it is impossible for us to arrange such a substantial amount in the current timeframe. Additionally, the stress of the situation has been overwhelming.

We appreciate your understanding and assistance in this matter. We are doing everything possible to stabilize our financial situation.

Thank you for your consideration.

Ravinder/Satvinder

EXHIBIT "R"

From: Tim Hogan
Sent: Monday, June 24, 2024 8:37 AM
To: smartsupermartltd@gmail.com
Cc: Thomas Masterson; McInnes, Craig; Emma Benaway
Subject: FW: Indebtedness of Smart Super Mart Ltd. to Royal Bank of Canada [IMAN-HPMAIN.FID645206]

Ravinder/Satvinder

As discussed with the Bank, considering the City of St. Catharines being in a position to commence a tax sale following July 26, 2024, the Bank will be applying to the Court to seek an Order appointing a Receiver, and a stay of proceedings against the Borrower.

Please have your lawyer contact us.

Thank-you.

Tim Hogan* | [HARRISON PENSA LLP](#) | [130 Dufferin Avenue, Suite 1101, London, ON N6A 5R2](#) | *tel/ 519-661-6743*
| *fax 519-667-3362* | thogan@harrisonpensa.com *Assistant* | Aimee Newman | *tel 519-850-5568* |
anewman@harrisonpensa.com *Services provided by *T. Hogan Professional Corporation* through Harrison Pensa LLP.

EXHIBIT "S"

From: Satvinder chauhan <smartsupermartltd@gmail.com>
Sent: Monday, June 24, 2024 6:47 PM
To: Tim Hogan
Cc: Thomas Masterson; Mcinnes, Craig; Emma Benaway
Subject: Re: FW: Indebtedness of Smart Super Mart Ltd. to Royal Bank of Canada [IMAN-HPMAIN.FID645206]

Some people who received this message don't often get email from smartsupermartltd@gmail.com. [Learn why this is important](#)

[EXTERNAL EMAIL]

Hi Tim,
We are discussing the property tax with the city officials and requested a meeting to resolve it. Kim Ashfield city official is setting up a meeting with Kristine Douglas (Director of Finance) and letting us know at the end of this week. We will update you .

Best Regards
Ravinder & Satvinder

EXHIBIT "V"

From: Satvinder chauhan <smartsupermartltd@gmail.com>
Sent: Tuesday, July 2, 2024 8:40 AM
To: Mcinnes, Craig
Cc: Tim Hogan; Emma Benaway; Thomas Masterson
Subject: Fwd: FW: Indebtedness of Smart Super Mart Ltd. to Royal Bank of Canada [IMAN-HPMAIN.FID645206]

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[EXTERNAL EMAIL]

Hi Craig,

We had a personal meeting with the City of St. Catharines Director of Finance and the City would like to have a meeting with RBC. Please let us know.

Last week we got Liquor license approval, which will bring more business to our gas station.

Best Regards

Ravinder & Satvinder

EXHIBIT "U"

From: Tim Hogan
Sent: Tuesday, July 2, 2024 9:01 AM
To: Satvinder chauhan; Mcinnes, Craig
Cc: Emma Benaway; Thomas Masterson; Sandy Viikna (sandy.viikna@rbc.com)
Subject: RE: Indebtedness of Smart Super Mart Ltd. to Royal Bank of Canada [IMAN-HPMAIN.FID645206]

Satvinder

It is best that the City provide its position to the Bank in writing.

Can you arrange for that to happen?

Please advise.

Tim Hogan* | [HARRISON PENSA LLP](#) | [130 Dufferin Avenue, Suite 1101, London, ON N6A 5R2](#) | *tel/ 519-661-6743*
| *fax 519-667-3362* | thogan@harrisonpensa.com *Assistant* | Aimee Newman | *tel/ 519-850-5568* |
anewman@harrisonpensa.com *Services provided by *T. Hogan Professional Corporation* through Harrison Pensa LLP.

This e-mail may contain information that is privileged or confidential. If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately

EXHIBIT "V"

From: Satvinder chauhan <smartsupermartltd@gmail.com>
Sent: Tuesday, July 2, 2024 9:52 AM
To: Tim Hogan
Cc: Mcinnes, Craig; Emma Benaway; Thomas Masterson; Sandy Viikna
(sandy.viikna@rb.com)
Subject: Re: Indebtedness of Smart Super Mart Ltd. to Royal Bank of Canada [IMAN-HPMAIN.FID645206]

Some people who received this message don't often get email from smartsupermartltd@gmail.com. [Learn why this is important](#)

[EXTERNAL EMAIL]

Hi Tim,
Let me check with the City. Will update you.

Best Regards

EXHIBIT "W"

CERTIFICATE OF THE TREASURER



Certificate No. **I14098**
 Date of Certificate **June 12, 2024**

50 Church St PO Box 3012
 St. Catharines On L2R7C2
 Email: taxes@stcatharines.ca
 Telephone: (905) 688-5600
 Fax: (905) 688-4077

ISSUED TO **Aimee Newman**
anewman@harrisonpensa.com

REFERENCE **199903**
 ROLL NUMBER **2629.020.025.16500.0000**
 ASSESSED OWNER
SMART SUPER MART LTD

PROPERTY DESCRIPTION

**179 185 ST PAUL ST W ST CATHARINES
 CP 2 PT LOTS 1852 TO 1854 RP 30R15372 PART 2**

**PENALTY/INTEREST OF 1.250 %
 HAS BEEN CALCULATED AS OF THE DATE THIS CERTIFICATE IS ISSUED
 Property is in Tax Sale Process.**

TAX ARREARS
Statement showing arrears of taxes on the above lands.

| YEAR | TAXES LEVIED | TAXES OUTSTANDING | INTEREST | ARREARS OUTSTANDING |
|-------|--------------|-------------------|-----------|---------------------|
| 2023 | 25,551.57 | 31,541.76 | 4,867.58 | 36,409.34 |
| 2022 | 23,695.25 | 26,496.31 | 8,175.37 | 34,671.68 |
| 2021+ | 184,046.58 | 32,493.56 | 14,794.81 | 47,288.37 |

STATEMENT OF CURRENT TAXES

| CURRENT LEVY | | INSTALMENT DUE DATES AND AMOUNTS | | | | CURRENT OUTSTANDING | |
|--------------|-----------|----------------------------------|----------|------------|----------|---------------------|-----------|
| INTERIM | 12,775.79 | 2024/02/29 | 6,388.79 | 2024/04/30 | 6,387.00 | TAX | 26,109.66 |
| FINAL | 13,333.87 | 2024/06/28 | 6,667.87 | 2024/09/27 | 6,666.00 | OTHER CHARGES | 12,112.36 |
| SUPP/ADJ | 0.00 | | | | | PENALTY | 654.46 |
| TOTAL | 26,109.66 | | | | | TOTAL CURRENT | 38,876.48 |

TOTAL OUTSTANDING **157,245.87**

I hereby certify that the above statement shows all arrears of taxes against the above lands.

For The City Treasurer

LOCAL IMPROVEMENTS ASSESSED TO THIS PROPERTY TO DATE INCLUDE

| CODE | DESCRIPTION | AMOUNT | EXPIRY |
|------|-------------|--------|--------|
| | | | |



Certificate No. **I14098**
Date of Certificate **June 12, 2024**

50 Church St PO Box 3012
St. Catharines On L2R7C2
Email: taxes@stcatharines.ca
Telephone: (905) 688-5600
Fax: (905) 688-4077

This statement is issued pursuant to Section 352 of the Municipal Act and is intended to show only the taxes levied for the current year and any unpaid taxes. After the date of this Certificate, the information shown may be affected by:

1. This tax certificate reflects only those charges added to the Tax Roll up to the certificate date and the Municipality will not be responsible for any damage, how so ever caused.
2. The information on this certificate is based on cheques tendered being honored by the bank upon which they are drawn.
3. Properties registered for Tax sale must be paid via certificated cheque or bank draft in full. Please contact the Tax department for more information.
4. Any credit balance appearing on this certificate is not verified. No adjustment will be made unless the credit balance is acknowledged as an overpayment.
5. This certificate does not include proposed Local Improvements for which construction has not been commenced or those which have been constructed but not levied.
6. This certificate will not include arrears charges for water and sewage utilities added to the tax roll subsequent to this notice. Water and Sewer Arrears Certificates for possible charges not shown may be obtained by contacting the City of St. Catharines at 905-688-5600.
7. This certificate may not include any direct services to the property not added to the tax roll at the date of certification for services such as work orders involving weed cutting, property standards charges, and snow or ice removal charges etc.
8. The total taxes may include additions to the Tax Roll as authorized by Provincial Legislation.
9. This certificate is subject to additional taxes, which may be levied pursuant to the provisions of Section 33 and 34 of the Assessment Act R.S.O. 1990 c.A.31.
10. This certificate is subject to adjustments of taxes pursuant to the provision of Section 40 of the Assessment Act R.S.O. 1990 and Sections 354, 357, 358, 361, 362, 363, 364, and 365 of the Municipal Act 2001.
11. Any parcel showing two years in arrears may be in the Tax Sale Registration process, therefore payment may be required in full by certified cheque. Please contact Collections for further details and pending charges.
12. This certificate may not represent all taxes levied against an individual P.I.N., as there may be multiple roll numbers assigned to an individual Property Identification Number registered on title at the Land Registry Office.
13. Pursuant to Section 347 (1) of the Municipal Act, any payment received shall be applied against late payment charges, with the charges imposed earlier being discharged before charges imposed later. The payment then shall be applied against the taxes imposed with the earlier being discharged first.
14. This certificate is subject to apportionments which may be made pursuant to Section 356 of the Municipal Act, 2001.
15. If you have reason to believe that the tax certificate is not correct, please contact the Tax Department 905-688-5600.Revenue-Tax Section

ROYAL BANK OF CANADA

-and-

SMART SUPER MART LTD.

Applicant

Respondent

Court File No. CV-24-00086229-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
HAMILTON, ONTARIO

AFFIDAVIT OF CRAIG MCINNES

HARRISON PENSA LLP
Barristers and Solicitors
130 Dufferin Avenue, Suite 1101
London, Ontario N6A 5R2

Timothy C. Hogan (LSO #33653S)

Tel: (519) 679-9660
Fax: (519) 667-3362
Email: thogan@harrisonpensa.com

Solicitors for the Applicant,
The Royal Bank of Canada

ROYAL BANK OF CANADA

-and-

SMART SUPER MART LTD.

Applicant

Respondent

Court File No. CV-24-00086229-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
HAMILTON, ONTARIO

APPLICATION RECORD

HARRISON PENSA LLP
Barristers and Solicitors
130 Dufferin Avenue, Suite 1101
London, Ontario N6A 5R2

Timothy C. Hogan (LSO #33653S)

Tel: (519) 679-9660
Fax: (519) 667-3362
Email: thogan@harrisonpensa.com

Solicitors for the Applicant,
Royal Bank of Canada