

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

B E T W E E N :

**THE TORONTO-DOMINION BANK**

Applicant

- and -

**2743732 ONTARIO INC., SERGEI HOMIAKOV AND IRENA GORZHALTSAN AKA  
IRENA HOMIAKOV**

Respondents

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

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**APPLICATION RECORD OF THE TORONTO-DOMINION BANK**

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April 28, 2023

**AIRD & BERLIS LLP**

Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9

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*Lawyers for The Toronto-Dominion Bank*

TO SERVICE LIST

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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# TAB 1



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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and

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R.S.O. 1990, c. C.43, AS AMENDED**

*(Court seal)*

**NOTICE OF APPLICATION**

**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

before a judge presiding over the Commercial List on May 9, 2023 at 12:30 p.m., or as soon after that time as the matter can be heard, via Zoom coordinates to be provided.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith

prepare a notice of appearance in Form 38A 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 at least four days 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 .....

Local registrar

Address of court office 330 University Avenue  
Toronto, ON M5G 1R7

**TO**           **2743732 ONTARIO INC.**  
298 Lennox Ave  
Richmond Hill, ON L4C 2A7

**AND TO:**   **SERGEI HOMIAKOV**  
298 Lennox Ave  
Richmond Hill, ON L4C 2A7

**AND TO:**   **IRENA GORZHALTSAN aka IRENA HOMIAAKOV**  
298 Lennox Ave  
Richmond Hill, ON L4C 2A7

## APPLICATION

1. The applicant, The Toronto-Dominion Bank (“**TD Bank**”), makes an application for, amongst other things:
  - (a) if necessary, abridging the time for service and filing of this notice of application and the application record or, in the alternative, dispensing with and/or validating service of same;
  - (b) the appointment of msi Spergel Inc. (“**msi Spergel**”) as receiver (in such capacity, the “**Receiver**”), without security, of all the assets, properties and undertakings (collectively, the “**Property**”) of 2743732 Ontario Inc. (the “**Debtor**”) including, without limitation, the real property municipally known as 162 Front Street, Sturgeon Falls, Ontario, P2B 2H8 (the “**Real Property**”);
  - (c) Judgments against each of Sergei Homiakov (“**Sergei**”) and Irena Gorzhaltzan aka Irena Homiakov (“**Irena**”) and together with Sergei, the “**Guarantors**”) in accordance with their joint and several guarantee obligations to TD Bank for:
    - (i) payment of \$2,797,182.14; and
    - (ii) pre-judgment interest on the sum in sub-paragraph 1(c)(i) from March 30, 2023, and post-judgment interest, at a rate equal to TD’s Prime Rate plus 1.850% per annum; or
    - (iii) in the alternative to sub-paragraph 1(c)(ii), pre-judgment interest from March 30, 2023, and post-judgment interest, in accordance with sections 128 and 129 of the *Courts of Justice Act*; and
  - (d) such further and other relief as is just.

**THE GROUNDS** for the application are:

**The Parties:**

2. The Debtor is an Ontario corporation with its registered office at 298 Lennox Avenue, Richmond Hill, Ontario, L4C 2A7.
3. The Guarantor, Sergei, is the sole director and officer of the Debtor, and the second Guarantor, Irena, is his spouse.
4. The Debtor's business is the operation of a Mobil gas station at the Real Property (the "**Gas Station**").
5. The Debtor and the Guarantors are collectively referred herein to as the "**Credit Parties**".

**The Credit Agreement and Security:**

6. The Debtor is indebted to TD Bank in connection with certain credit facilities made available by TD Bank to the Debtor pursuant to and under the terms of a letter of agreement dated August 13, 2021 (as amended, replaced, restated or supplemented from time to time, the "**Credit Agreement**").
7. As security for the Debtor's obligations to TD Bank, including, without limitation, under the Credit Agreement, the Debtor provided, without limitation:
  - (a) a general security agreement dated September 10, 2021 (the "**GSA**"), which grants to TD Bank, among other things, a security interest in any and all of the property, assets and undertakings of the Debtor, registration in respect of which was duly made pursuant to the *Personal Property Security Act* (Ontario) (the "**PPSA**");



- (b) a collateral charge/mortgage granted by the Debtor in the amount of \$3,035,000.00 in respect of the Real Property (the “**Charge**”), which was registered on title on September 14, 2021 as instrument no. BS204267; and
  - (c) a General Assignment of Rents & Leases dated September 14, 2021, granted by the Debtor in respect of the Real Property, which was registered on title on September 14, 2021 as instrument no. BS204268.
8. TD Bank is the Debtor’s first-ranking registered secured creditor under the PPSA over the Property.
  9. The Charge on the Real Property is a first charge in favour of TD Bank.
  10. By unlimited guarantees dated September 10, 2021, each of the Guarantors jointly and severally guaranteed payment of all the obligations of the Debtor to TD Bank plus interest thereon from the date of demand at a rate equal to the highest rate charged on any of the guaranteed obligations plus all amounts owed by the Debtor for fees, costs and expenses (together, the “**Guarantees**”).
  11. The guarantee from Irena is supported by a Certificate of Independent Legal Advice.
  12. The security documents listed in paragraph 7 are collectively referred to as the “**Security**”.
  13. Pursuant to a Postponement and Assignment of Creditors Claim and Postponement of Security made September 10, 2021, Sergei: (i) agreed to postpone repayment of any debts owed to him by the Debtor; (ii) subordinated any security held by him over the Debtor or its assets; and (iii) assigned to TD Bank any claims he may have against the Debtor.

**Defaults and Demands for Payment:**

14. Certain of the Credit Facilities are repayable on demand, and one or more Events of Default (as defined in the Credit Agreements and/or the Security, as applicable) has occurred, including failure to pay the scheduled amounts of principal, interest and fees on the date when they become due.
15. TD Bank, through its lawyers, Aird & Berlis LLP, made formal written demand on the Debtor for payment of the Debtor's indebtedness to TD Bank by letter dated March 30, 2023 (the "**Demand**"), accompanied by a notice of intention to enforce security (the "**BIA Notice**"), which was delivered to the Debtor pursuant to subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**").
16. On the same date, TD Bank made formal written Demand upon each of the Guarantors, which Demands triggered the Guarantors' obligations to pay TD Bank.
17. As set out in the Demands and the BIA Notice, a total of \$2,797,182.14 (exclusive of legal fees, disbursements and accruing interest) was owing by the Debtor to TD Bank under the Credit Agreement as of March 30, 2023 (the "**Indebtedness**"). The Indebtedness continues to accrue.
18. Since the issuance of the Demands, the Credit Parties have failed or refused to (a) repay the Indebtedness in full or (b) enter into any arrangements acceptable to TD Bank for the full repayment of the Indebtedness.
19. The Credit Parties are in default of the terms of and their obligations under the Credit Agreement and the Security, and are unwilling or unable to repay the Indebtedness.

**The Rationale for the Appointment Order:**

20. The provisions of the Security allow for the appointment of a Receiver over the Property of the Debtors upon default.
21. The appointment of a receiver is necessary for the protection of the estate of the Debtor and the interests of TD Bank as a secured creditor, alongside any other stakeholders.
22. msi Spergel is qualified to act as receiver, is familiar with the Debtor's business, and has consented to act as receiver if so appointed by the Court.
23. Under the terms of each of the Guarantees, TD Bank is not obligated to exhaust its recourses against the Debtor or the other Guarantor, or in respect of any security TD Bank holds, before being entitled to payment from a Guarantor.
24. Section 243 of the BIA.
25. Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended.
26. Any applicable rules of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended.
27. Such further grounds as counsel may advise and this Court may permit.

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

- (a) The Affidavit of Amanda Bezner to be sworn and filed, and all exhibits thereto;
- (b) The consent of msi Spergel to act as the Receiver; and
- (c) Such other material as is required and this Court may permit.

April 17, 2023

**AIRD & BERLIS LLP**

Barristers & Solicitors

Brookfield Place

181 Bay Street, Suite 1800

Toronto, Ontario M5J 2T9

**Kyle Plunkett (LSO # 61044N)**

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Lawyers for The Toronto-Dominion Bank

**THE TORONTO-DOMINION BANK**

- and -

**2743732 ONTARIO INC. et al.**

Applicant

Respondents

Court File No.

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

**Proceedings commenced at Toronto**

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**NOTICE OF APPLICATION**

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**AIRD & BERLIS LLP**

Barristers & Solicitors  
Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, Ontario M5J 2T9

**Kyle Plunkett (LSO # 61044N)**

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Lawyers for The Toronto-Dominion Bank

# TAB 2

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*COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

**AFFIDAVIT OF AMANDA BEZNER**  
(Sworn April 27, 2023)

I, AMANDA BEZNER, of the City of Toronto, in the Province of Ontario do make oath  
and say as follows:

1. I am an account manager in the Financial Restructuring Group of The Toronto Dominion Bank (“**TD Bank**”), and as such have knowledge of the matters to which I hereinafter depose. To the extent that I do not have direct first-hand knowledge of particular facts or events, I have obtained that information from others and/or from my review of the documentation attached as exhibits, and have indicated the source of that information in my Affidavit. I verily believe the facts hereinafter deposed to are true and correct.

2. I swear this affidavit in support of TD Bank's application to appoint msi Spergel Inc. ("**Spergel**") as receiver, without security, of all the assets, properties and undertakings (collectively, the "**Property**") of 2743732 Ontario Inc. (the "**Debtor**") including, without limitation, the real property municipally known as 162 Front Street, Sturgeon Falls, Ontario, P2B 2H8 and legally described as PT LT 3 CON 1 SPRINGER PT 4 - 6 36R6873 SRO & PT 4 - 6 36R7620; WEST NIPISSING; DISTRICT OF NIPISSING (the "**Real Property**").

**The Parties:**

3. The Debtor is a company incorporated pursuant to the laws of the Province of Ontario, with its stated registered office at 298 Lennox Avenue, Richmond Hill, Ontario, L4C 2A7. Attached to this affidavit and marked as **Exhibit "A"** is a true copy of the Corporate Profile Report for the Debtor.

4. I understand that the Debtor is owned and/or controlled by the individual Respondent, Sergei Homiakov, an individual residing in Tottenham, Ontario ("**Sergei**"). Sergei is listed as sole director, president and secretary of the Debtor, based on a review of the Corporate Profile Report. Sergei is an authorized representative of the Debtor as it relates to the Debtor's lending arrangements with TD Bank.

5. The other individual Respondent, Irena Gorzhaltzan aka Irena Homiakov ("**Irena**"), has guaranteed the Debtor's obligations to TD Bank, as further described below. I also understand that Irena is Sergei's spouse.



**The Real Property:**

6. The Debtor operates as a gas station at the Real Property. In addition to gasoline and diesel, it also sells other products under the Mobil banner, and has an associated convenience store.

7. I understand that the Debtor also has two commercial tenants at the Real Property that carry on business as an automobile repair shop and a pizza restaurant, respectively, pursuant to lease agreements.

8. A copy of the parcel register for the Real Property, current to March 23, 2023, is attached hereto and marked as **Exhibit "B"**.

**The Credit Agreement:**

9. The Debtor is indebted to TD Bank in connection with certain credit facilities made available by TD Bank to the Debtor (the "**Credit Facilities**") pursuant to and under the terms of a letter of agreement dated August 13, 2021 (as amended, replaced, restated or supplemented from time to time, the "**Credit Agreement**").

10. A copy of the Credit Agreement is attached hereto and marked as **Exhibit "C"**.

**TD Bank's Security:**

11. As security for the Debtor's obligations to TD Bank, including, without limitation, under the Credit Agreement, the Debtor provided, among other things:

- (a) a general security agreement dated September 10, 2021 (the "**GSA**"), which grants to TD Bank, among other things, a security interest in any and all of the property, assets and undertakings of the Debtor, registration in respect of which was duly

made pursuant to the *Personal Property Security Act* (Ontario) (the “**PPSA**”). A copy of the GSA is attached hereto and marked as **Exhibit "D"**;

- (b) a collateral charge/mortgage granted by the Debtor in the amount of \$3,035,000.00 in respect of the Real Property (the “**Charge**”), which was registered on title on September 14, 2021 as instrument no. BS204267 and is attached hereto and marked as **Exhibit "E"**; and
  - (c) a General Assignment of Rents & Leases dated September 14, 2021 (the “**Assignment of Rents**”), granted by the Debtor in respect of the Real Property, which was registered on title on September 14, 2021 as instrument no. BS204268 and is attached hereto and marked as **Exhibit "F"**,
- (collectively, the “**Security**”).

12. TD Bank is the Debtor’s senior ranking secured creditor under the PPSA over the Property. Attached hereto and marked as **Exhibit "G"** is a copy of the certified PPSA search for the Debtor, current as of March 21, 2023. The PPSA search does not reveal any other registrants.

13. The GSA granted by the Debtor allows TD Bank to appoint a receiver over the Debtor’s property upon the occurrence of an Event of Default, which is defined in the GSA as, *inter alia*, when the Debtor “*fails to pay when due, whether by acceleration or otherwise, any of the Obligations*”. Pursuant to s. 12 of the GSAs:

12 (a) Upon the occurrence of an event of default that has not been cured or waived, the Bank, in addition to any right or remedy otherwise provided herein or by law or in equity, will have the rights and remedies set out below, which may be enforced successively or concurrently:

(xii) to appoint or reappoint by instrument in writing any person or persons, whether an officer or officers or employee or employees of the Bank or not, to be a receiver or receivers or a receiver and manager of the Collateral and remove or replace any person or persons so appointed or apply to any court for the appointment of a receiver or receiver and manager (each hereinafter called a "Receiver")

12 (c) The Grantor agrees to pay all costs, charges and expenses incurred by the Bank or any Receiver appointed by the Bank, whether directly or for services rendered (including reasonable legal and auditors' costs and expenses and Receiver remuneration) [...]

14. As set out above, the Real Property is subject to the Charge in favour of TD Bank, in the amount of \$3,035,000.00, to secure payment of amounts owed to TD Bank. TD Bank is the first-ranking secured creditor over the Real Property pursuant to the Charge.

15. The parcel register also reflects the registration of TD Bank's Assignment of Rents.

16. The Debtor's obligations to TD Bank, including, without limitation, under the Credit Agreement, are guaranteed by each of Sergei and Irena pursuant to and under the terms of two unlimited guarantees dated September 10, 2021, granted by each of them, respectively (together, the "**Guarantees**"). Copies of the Guarantees are attached hereto and marked as **Exhibit "H"**.

17. The Guarantee from Irena is supported by a Certificate of Independent Legal Advice, a copy of which is attached hereto and marked as **Exhibit "I"**.

18. Pursuant to a Postponement and Assignment of Creditors Claim and Postponement of Security made September 10, 2021 (the "**Postponement**"), Sergei: (i) agreed to postpone repayment of any debts owed to him by the Debtor; (ii) subordinated any security held by him over the Debtor or its assets; and (iii) assigned to TD Bank any claims he may have against the Debtor. A copy of the Postponement is attached hereto and marked as **Exhibit "J"**.

**Defaults and Demands for Payment:**

19. The Credit Agreement contains standard Events of Default, including if there is a breach or non-performance or non-observance of any term or condition of the Credit Agreement or the Security.

20. Certain of the Credit Facilities are repayable on demand, and one or more Events of Default (as defined in the Credit Agreement and/or the Security, as applicable) have occurred, including failure to (i) pay the scheduled amounts of principal, interest and fees on the date when they became due; and (ii) keep current on its priority payables.

21. TD Bank previously issued letters of default dated October 17, 2022 and January 16, 2023, respectively, noting that the Debtor had breached certain covenants under the Credit Agreement.

22. In fact, the Debtor has failed to make the scheduled payments since January 2023.

23. As a result of the Debtor's non-compliance with the terms of the Credit Agreement, TD Bank made formal written demand on the Debtor for payment of its indebtedness to TD Bank by letter dated March 30, 2023 (the "**Demand**"), which was accompanied by a notice of intention to enforce security (the "**BIA Notice**") delivered to the Debtor pursuant to subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"). On the same date, TD Bank made formal written Demand upon each of the Guarantors, which Demands triggered the Guarantors' obligations to pay TD Bank. Copies of the Demands and the BIA Notice are attached hereto and marked as **Exhibit "K"**.

24. As set out in the Demands and the BIA Notice, a total of \$2,797,182.14 (CAD) (exclusive of legal fees, disbursements and accruing interest) was owing by the Debtor to TD Bank under the

Credit Agreement as of March 29, 2023 (the “**Indebtedness**”). The Indebtedness continues to accrue.

25. Since issuance of the Demands, which seasoned on April 10, 2023, and despite ongoing efforts by Spergel, as agent for TD Bank, to dialogue with the Credit Parties, the Credit Parties have failed or refused to (a) acknowledge TD Bank’s correspondence, (b) repay the Indebtedness in full or (c) enter into any arrangements acceptable to TD Bank for the full repayment of the Indebtedness.

26. Spergel has not received any response from the Respondents to its inquiries.

27. The Credit Parties are in default of the terms of and their obligations under the Credit Agreement and the Security, and unwilling or unable to repay the Indebtedness.

**Rationale for the Appointment Order:**

28. The provisions of the Security allow for the appointment of a Receiver over the Property of the Debtor upon default.

29. The BIA Notice has expired and TD Bank is in a position to seek an order appointing a receiver.

30. The appointment of a receiver is necessary for the protection of the estates of the Debtor and the interests of TD Bank as a secured creditor, alongside any other stakeholders.

31. Spergel has consented to being appointed as the Receiver, without security, over all of the Property of the Debtor, including the Real Property. Spergel is qualified to act as receiver and is familiar with the Debtor’s business.

32. Under the terms of each of the Guarantees, TD Bank is not obligated to exhaust its recourses against the Debtor or the other Guarantor, or in respect of any security TD Bank holds, before being entitled to payment from a Guarantor.

33. ALL OF WHICH IS SWORN BY ME in good faith.

**SWORN** remotely by Amanda Bezner, stated as )  
being in the City of Toronto, in the Province of )  
Ontario, before me on April 27, 2023 in )  
accordance with O. Reg. 431/20, Administering )  
Oath or Declaration Remotely. )

DocuSigned by: )  
*Matilda Lici* )  
7CE576F4AA3D4CA... )

\_\_\_\_\_  
Commissioner (or as may be) Matilda Lici )

DocuSigned by: )  
*Amanda Bezner* )  
6CB3EC0DD99F48B... )

\_\_\_\_\_  
Amanda Bezner

This is Exhibit "A" of  
the Affidavit of Amanda Bezner  
Sworn before me this 27<sup>th</sup> day of April, 2023

DocuSigned by:  
*Matilda Lici*  
7CE576F4AA3D4CA...

---

A Commissioner, etc.



## Profile Report

2743732 ONTARIO INC. as of March 22, 2023

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	2743732 ONTARIO INC.
Ontario Corporation Number (OCN)	2743732
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Incorporation	February 20, 2020
Registered or Head Office Address	298 Lennox Avenue, Richmond Hill, Ontario, Canada, L4C 2A7

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** 1  
**Maximum Number of Directors** 10

**Name** SERGEI HOMIAKOV  
**Address for Service** 298 Lennox Avenue, Richmond Hill, Ontario, Canada, L4C  
2A7  
**Resident Canadian** Yes  
**Date Began** February 20, 2020

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

*V. Quintanilla W.*

Director/Registrar

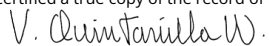
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**Active Officer(s)**

**Name** SERGEI HOMIAKOV  
**Position** President  
**Address for Service** 298 Lennox Avenue, Richmond Hill, Ontario, Canada, L4C 2A7  
**Date Began** February 20, 2020

**Name** SERGEI HOMIAKOV  
**Position** Secretary  
**Address for Service** 298 Lennox Avenue, Richmond Hill, Ontario, Canada, L4C 2A7  
**Date Began** June 07, 2021

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



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**

2743732 ONTARIO INC.

**Effective Date**

February 20, 2020

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 Business Names

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

Certified a true copy of the record of the Ministry of 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.

### 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 - Notice of Change PAF: SERGEI HOMIAKOV - DIRECTOR	June 08, 2021
CIA - Initial Return PAF: SERGEI HOMIAKOV - DIRECTOR	February 20, 2020
BCA - Articles of Incorporation	February 20, 2020

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.

This is Exhibit "B" of  
the Affidavit of Amanda Bezner  
Sworn before me this 27<sup>th</sup> day of April, 2023

DocuSigned by:  
*Matilda Lici*  
7CF576F4AA3D4CA

---

A Commissioner, etc.

LAND  
REGISTRY  
OFFICE #36

49080-0692 (LT)

PAGE 1 OF 5  
PREPARED FOR Carlos01  
ON 2023/03/23 AT 10:21:19

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

PROPERTY DESCRIPTION: PT LT 3 CON 1 SPRINGER PT 4 - 6 36R6873 SRO & PT 4 - 6 36R7620; WEST NIPISSING ; DISTRICT OF NIPISSING

PROPERTY REMARKS: PLANNING ACT CONSENT AS IN NB130582. PLANNING ACT CONSENT AS IN NB136668. PLANNING ACT CONSENT AS IN NB136669. PLANNING ACT CONSENT AS IN NB130543.

ESTATE/QUALIFIER:  
FEE SIMPLE  
LT CONVERSION QUALIFIED

RECENTLY:  
FIRST CONVERSION FROM BOOK

PIN CREATION DATE:  
2004/09/20

OWNERS' NAMES  
2743732 ONTARIO INC.

CAPACITY SHARE  
ROWN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2004/09/17 **						
**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: 2004/09/20 **						
NB58662	1965/01/28	ORDER				C
36R3618	1974/10/09	PLAN REFERENCE				C
NB83449	1974/12/02	LEASE		*** COMPLETELY DELETED ***	TRUCHON, MARIE	
36R4126	1976/07/27	PLAN REFERENCE				C
NB96220	1979/02/19	LEASE		*** COMPLETELY DELETED ***	TRUCHON FUEL SALES (STURGEON FALLS) LIMITED	
NB101509	1981/02/05	AGREEMENT		*** COMPLETELY DELETED ***		
NB101975	1981/04/27	CHARGE OF LEASE		*** COMPLETELY DELETED ***	GOULARD LUMBER (1971) LIMITED	
36R6873	1985/07/25	PLAN REFERENCE				C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.



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OFFICE #36

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ON 2023/03/23 AT 10:21:19

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

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
36R7620	1988/02/04	PLAN REFERENCE				C
NB132035	1990/10/10	CHARGE		*** COMPLETELY DELETED ***	NATIONAL BANK OF CANADA	
NB136668	1991/03/09	TRANSFER		*** COMPLETELY DELETED ***	TRUCHON FUEL SALES (STURGEON FALLS) LIMITED	
NB136669	1991/03/09	TRANSFER		*** COMPLETELY DELETED ***	TRUCHON FUEL SALES (STURGEON FALLS) LIMITED	
NB135752	1991/11/22	CHARGE		*** COMPLETELY DELETED ***	NATIONAL BANK OF CANADA	
NB135753	1991/11/22	CHARGE		*** COMPLETELY DELETED ***	NATIONAL BANK OF CANADA	
NB135754	1991/11/22	CHARGE		*** COMPLETELY DELETED ***	NATIONAL BANK OF CANADA	
BS589	2005/03/30	DISCH OF CHARGE		*** COMPLETELY DELETED *** GOULARD LUMBER (1971) LIMITED		
	REMARKS: RE: NB101975					
BS775	2005/04/01	TRANSFER		*** COMPLETELY DELETED *** TRUCHON FUEL SALES (STURGEON FALLS) LIMITED	2068020 ONTARIO INC.	
	REMARKS: PLANNING ACT STATEMENTS					
BS776	2005/04/01	CHARGE		*** COMPLETELY DELETED *** 2068020 ONTARIO INC.	WELLS, RAYMOND	
BS2485	2005/05/24	DISCH OF CHARGE		*** COMPLETELY DELETED *** NATIONAL BANK OF CANADA		
	REMARKS: RE: NB132035					
BS2486	2005/05/24	DISCH OF CHARGE		*** COMPLETELY DELETED *** NATIONAL BANK OF CANADA		
	REMARKS: RE: NB135752					
BS2487	2005/05/24	DISCH OF CHARGE		*** COMPLETELY DELETED *** NATIONAL BANK OF CANADA		
	REMARKS: RE: NB135753					

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
BS2488	2005/05/24	DISCH OF CHARGE		*** COMPLETELY DELETED *** NATIONAL BANK OF CANADA		
	<i>REMARKS: RE: NB135754</i>					
BS3920	2005/06/24	NOTICE		*** COMPLETELY DELETED *** 2068020 ONTARIO INC,	WELLS, RAYMOND	
	<i>REMARKS: BS776; DELETED 2011/02/04 BY DISCHARGE BS19497</i>					
BS3921	2005/06/24	CHARGE		*** COMPLETELY DELETED *** 2068020 ONTARIO INC.	WELLS, RAYMOND	
BS18634	2006/06/29	CHARGE		*** COMPLETELY DELETED *** 2068020 ONTARIO INC.	CAISSE POPULAIRE STURGEON FALLS LIMITEE	
BS18635	2006/06/29	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** 2068020 ONTARIO INC.	CAISSE POPULAIRE STURGEON FALLS LIMITEE	
	<i>REMARKS: RE BS18634</i>					
BS19497	2006/07/14	DISCH OF CHARGE		*** COMPLETELY DELETED *** WELLS, RAYMOND		
	<i>REMARKS: RE: BS776</i>					
BS19498	2006/07/14	DISCH OF CHARGE		*** COMPLETELY DELETED *** WELLS, RAYMOND		
	<i>REMARKS: RE: BS3921</i>					
BS85769	2011/02/08	APL (GENERAL)		*** COMPLETELY DELETED *** 2068020 ONTARIO INC.		
	<i>REMARKS: RE NB83449</i>					
BS85775	2011/02/08	TRANSFER		*** COMPLETELY DELETED *** 2068020 ONTARIO INC.	2269522 ONTARIO INC.	
	<i>REMARKS: PLANNING ACT STATEMENTS</i>					
BS85776	2011/02/08	CHARGE		*** COMPLETELY DELETED *** 2269522 ONTARIO INC.	NORTHERN CREDIT UNION LIMITED	
BS85777	2011/02/08	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** 2269522 ONTARIO INC.	NORTHERN CREDIT UNION LIMITED	
	<i>REMARKS: BS85776. RE BS85776</i>					
BS129106	2014/09/25	DISCH OF CHARGE		*** COMPLETELY DELETED ***		

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
				CAISSE POPULAIRE STURGEON FALLS LIMITEE		
	<i>REMARKS: BS18634.</i>					
BS132843	2015/02/19	APL (GENERAL)		*** COMPLETELY DELETED *** 2269522 ONTARIO INC.		
BS132920	2015/02/23	CHARGE		*** COMPLETELY DELETED *** 2269522 ONTARIO INC.	XTR ENERGY COMPANY LIMITED	
BS166206	2018/04/13	APL CH NAME INST		*** COMPLETELY DELETED *** XTR ENERGY COMPANY LIMITED	3544613 CANADA INC.	
	<i>REMARKS: BS132920.</i>					
BS166207	2018/04/13	TRANSFER OF CHARGE		*** COMPLETELY DELETED *** 3544613 CANADA INC.	WORLD FUEL SERVICES CANADA, ULC	
	<i>REMARKS: BS132920.</i>					
BS166612	2018/05/01	DISCH OF CHARGE		*** COMPLETELY DELETED *** WORLD FUEL SERVICES CANADA, ULC		
	<i>REMARKS: BS132920.</i>					
BS166689	2018/05/03	TRANSFER		*** COMPLETELY DELETED *** 2269522 ONTARIO INC.	2300485 ONTARIO INC.	
BS166742	2018/05/07	DISCH OF CHARGE		*** COMPLETELY DELETED *** NORTHERN CREDIT UNION LIMITED		
	<i>REMARKS: BS85776.</i>					
BS176042	2019/04/09	APL (GENERAL)		*** COMPLETELY DELETED *** 2300485 ONTARIO INC.		
	<i>REMARKS: NB101509</i>					
BS176118	2019/04/12	TRANSFER		*** COMPLETELY DELETED *** 2300485 ONTARIO INC.	2634189 ONTARIO INC.	
	<i>REMARKS: PLANNING ACT STATEMENTS.</i>					
BS176119	2019/04/12	CHARGE		*** COMPLETELY DELETED *** 2634189 ONTARIO INC.	RATHCLIFFE CAPITAL CORP.	
BS176120	2019/04/12	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** 2634189 ONTARIO INC.	RATHCLIFFE CAPITAL CORP.	
	<i>REMARKS: BS176119</i>					

LAND  
REGISTRY  
OFFICE #36

49080-0692 (LT)

PREPARED FOR Carlos01  
ON 2023/03/23 AT 10:21:19

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

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
BS204008	2021/09/03	TRANSFER	\$2	2634189 ONTARIO INC.	2743732 ONTARIO INC.	C
BS204267	2021/09/14	CHARGE	\$3,035,000	2743732 ONTARIO INC.	THE TORONTO-DOMINION BANK	C
BS204268	2021/09/14	NO ASSGN RENT GEN REMARKS: BS204267		2743732 ONTARIO INC.	THE TORONTO-DOMINION BANK	C
BS204590	2021/09/21	DISCH OF CHARGE REMARKS: BS176119.		*** COMPLETELY DELETED *** RATHCLIFFE CAPITAL CORP.		

This is Exhibit "C" of  
the Affidavit of Amanda Bezner  
Sworn before me this 27<sup>th</sup> day of April, 2023

DocuSigned by:  
*Matilda Lici*  
7CE576F4AA3D4CA...

---

A Commissioner, etc.



GTA EAST COMMERCIAL BANKING CENTRE  
305 MILNER AVE SUITE 702  
SCARBOROUGH, ON  
M1B3V4

Tel: (416)291-8737  
Fax: (416)291-8373

August 13, 2021

2743732 ONTARIO INC.  
162 FRONT ST  
STURGEON FALLS ON  
P2B 2H8

Attention: Mr. SERGEI HOMIAKOV

Dear Mr. Homiakov

**LETTER OF AGREEMENT**

We are pleased to offer the Borrower the following credit facilities (the "Facilities"), subject to the following terms and conditions.

**BORROWER(S):**

2743732 ONTARIO INC.                      Borrower (A)  
(the 'Borrower')

**LENDER**

**The Toronto-Dominion Bank** (the "Bank"), through its GTA EAST COMMERCIAL BANKING CENTRE in SCARBOROUGH, ON

**CREDIT LIMIT**

Borrower A    1)    CAD \$85,000  
Borrower A    2)    CAD \$3,000,000

## **TYPE OF CREDIT AND BORROWING OPTIONS**

- 1) Operating Loan available at the Borrower's option by way of:
  - Letters of Credit in CAD\$ ('L/Cs')
  - Prime Rate Based Loans in CAD\$ ('Prime Based Loans')
- 2) Committed (Reducing/Revolving) Term Facility (Single Draw /Multi Draw) available at the Borrower's option by way of:
  - Fixed Rate Term Loan in CAD\$
  - Floating Rate Term Loan available by way of:
    - Prime Rate Based Loans in CAD\$ ('Prime Based Loans')

## **PURPOSE**

- 1) To use for day to day operations and to provide security deposit to Global Fuel Inc. for fuel supply.
- 2) To refinance private mortgage at the property located at 162 Sturgeon falls ON

## **TENOR**

- 1) Uncommitted
- 2) Committed

## **CONTRACTUAL TERM**

- 1) No Term
- 2) Upon Drawdown, the lesser of 5 years or the Rate Term as selected by the Borrower

## **RATE TERM (FIXED RATE TERM LOAN)**

- 2) Fixed Rate: 6 months to 5 years but never to exceed the Contractual Term Maturity Date  
Floating Rate: No Term

## **AMORTIZATION**

- 2) 15 years from Drawdown Date

## **INTEREST RATES AND FEES**

Advances shall bear interest and fees as follows:

- 1) Operating Loan:
  - L/Cs: As advised by the Bank at the time of issuance of the L/C
  - Prime Based Loans: Prime Rate +1.850% per annum
- 2) Committed Reducing Term Facility:

- Fixed Rate Term Loans: As determined by the Bank, in its sole discretion, for the Rate Term selected by the Borrower, and as set out in the Rate and Payment Terms Notice applicable to that Fixed Rate Term Loan.
- Floating Rate Term Loans available by way of:
  - Prime Based Loans: Prime Rate +1.850% per annum

For all Facilities, interest payments will be made in accordance with Schedule 'A' attached hereto unless otherwise stated in this Letter or in the Rate and Payment Terms Notice applicable for a particular drawdown. Information on interest rate and fee definitions, interest rate calculations and payment are set out in the Schedule 'A' attached hereto.

Interest on Fixed Rate Term Loans under Facility #2 is compounded monthly and payable monthly in arrears

**ARRANGEMENT FEE**

- 1) The Borrower has paid or will pay prior to the Drawdown a non-refundable arrangement fee of CAD \$7,500

**ADMINISTRATION FEE**

- 1) CAD \$50 Monthly

**RENEWAL FEE**

- 1) CAD \$3,000 Annually

**EXCESS MONITORING FEE**

The Borrower may, at the Bank's discretion, be charged an Excess Monitoring Fee of \$250.00 payable in the currency of the Facility, each time that the Credit Limit of a Facility is exceeded. Any extension of credit above the Credit Limit will be at the Bank's sole and absolute discretion.

**DRAWDOWN**

- 1) On a Revolving Basis.
  - Operating line to be capped at \$35,000 and is available on a revolving basis, upon satisfaction of disbursement conditions.
  - L/Cs and L/G are permitted to a maximum of \$50,000 CAD as required upon satisfaction of disbursement conditions. L/Cs and L/Gs are to be issued once Term Deposit has been restrained as directed by the CBC. Term is not to exceed standard 1year time frame with auto renewal.
- 2) The Mortgage Loan will be available by a one-time drawdown ("the Drawdown") prior to October 31, 2021 (the "Expiry Date"), after which time, any amount not drawn is cancelled. Amounts repaid may not be redrawn.



## OVERDRAFTS

- 1) The Borrower will have access to Prime Based Loans under the Operating Loan via overdraft from Account Number [REDACTED] at Branch 1060 (the "Account") up to the Credit Limit.

## REPAYMENT AND REDUCTION OF AMOUNT OF CREDIT FACILITY

- 1) On demand. If the Bank demands repayment, the Borrower will pay to the Bank all amounts outstanding under the Facility, including without limitation, as applicable, the amount of all unmatured B/As and the amount of all drawn and undrawn L/Gs and L/Cs. All costs to the Bank and all loss suffered by the Bank in re-employing the amounts so repaid will be paid by the Borrower.  
Operating line: On demand.  
L/C and L/G: to be repaid upon payment or cancellation by beneficiary.
- 2) Fixed Rate: Equal monthly payments of principal and interest. To be determined on the date of drawdown

Floating Rate: Equal monthly payments of principal and interest unless earlier demanded. To be determined on the date of drawdown

## PREPAYMENT

- 2) Fixed Rate Mortgage Loan:  
Permitted in whole or in part at any time, provided that an Event of Default has not occurred, subject to payment of a prepayment penalty; for a 0.05% premium to the above interest rates, the Borrower has the option of selecting the 10% Prepayment Option.

Floating Rate Mortgage Loan:  
Permitted in whole or in part at any time without notice or bonus provided that an Event of Default has not occurred

## SECURITY

The following security shall be provided, shall, unless otherwise indicated, support all present and future indebtedness and liability of the Borrower and the grantor of the security to the Bank including without limitation indebtedness and liability under guarantees, foreign exchange contracts, cash management products, and derivative contracts, shall be registered in first position, and shall be on the Bank's standard form, supported by resolutions and solicitor's opinion, all acceptable to the Bank:

- a) General Security Agreement ('GSA') from 2743732 ONTARIO INC. representing a First charge on all its present and after acquired personal property. **To be Obtained**
- b) Continuing Collateral Mortgage, representing a First charge, in the principal amount of CAD \$3,035,000 beneficially owned by and registered in the name of 2743732 ONTARIO INC., on real property located at:  
162 Front Street, Sturgeon Falls, Ontario, P2B 2H8, Canada- **To be Obtained**
- c) General Assignment of Rents and Leases from 2743732 ONTARIO INC. covering property located at: 162 Front Street, Sturgeon Falls, Ontario, P2B 2H8, Canada - **To be Obtained**
- d) Assignment of Fire Insurance from 2743732 ONTARIO INC.- **To be Obtained**
- e) Business Insurance from 2743732 ONTARIO INC.- **To be Obtained**
- f) Unlimited Guarantee of Advances executed by SERGEI HOMIAKOV (the 'Guarantor') in support of:

- 2743732 ONTARIO INC. **To be Obtained**
- g) Environmental Indemnity Agreement (or Environmental Indemnity and Warranty Agreement) from SERGEI HOMIAKOV, IRENA GORZHALTSAN, 2743732 ONTARIO INC. **To be Obtained**
  - h) Postponement and Assignment of Creditor's Claim executed by SERGEI HOMIAKOV in the amount of CAD \$2,860,582 - **To be Obtained**
  - i) Assignment of Term Deposits and Credit Balances registered in the name of 2743732 ONTARIO INC. in the amount of CAD \$50,000.- **To be Obtained**
  - j) Unlimited Guarantee of Advances executed by IRENA GORZHALTSAN (the 'Guarantor') in support of:  
2743732 ONTARIO INC.- **To be Obtained**

All persons and entities required to provide a guarantee shall be referred to in this Agreement individually as a "Surety" and/or "Guarantor" and collectively as the "Guarantors";

All of the above security and guarantees shall be referred to collectively in this Agreement as "Bank Security".

### **DISBURSEMENT CONDITIONS**

The obligation of the Bank to permit any drawdown hereunder is subject to the Standard Disbursement Conditions contained in Schedule 'A' and the following additional drawdown conditions:

<b>Seq #</b>	<b>Description</b>	<b>Facility #</b>
1)	1) All security and documentation to be on hand in good order, with security registered by Bank-approved solicitor. 2) Confirmation that the appropriate Fuel Supply Agreement between 2743732 Ontario Inc and Global Fuel Inc is in place. Such confirmation to be found satisfactory by the Bank. 3) Bank solicitor to confirm property taxes are up to date. 4) Accountant prepared opening financial statement of 2742732 Ontario Inc 5) Transfer of all Assets and Liabilities related to Mobil Gas Station located at 162 Front St. Sturgeon Falls to a 2742732 Ontario Inc. 6) Dealer Commission agreement between 2742732 Ontario Inc. and Global Fuel Inc. 7) All commercial Lease agreements to be assigned to 2743721 Ontario Inc. 8) Valid TSSA license in the name of 2742732 Ontario Inc. 9) Solicitor to confirm charges for \$2,100,000 by Rathcliffe Capital Corp. on property located at 162 Front Street, Sturgeon Falls, ON and charge for \$1,500,000 by 2554977 Ontario Inc. on property located at 298 Lennox Avenue, Richmond Hill, ON to be discharged at closing.	ALL

### **REPRESENTATIONS AND WARRANTIES**

All representations and warranties shall be deemed to be continually repeated so long as any amounts remain outstanding and unpaid under this Agreement or so long as any commitment under this Agreement remains in effect. The Borrower makes the Representations and Warranties set out in Schedule 'A'.

### **POSITIVE COVENANTS**

So long as any amounts remain outstanding and unpaid under this Agreement or so long as any commitment under this Agreement remains in effect, the Borrower will and will ensure that its subsidiaries

and each of the Guarantors will observe the Standard Positive Covenants set out in Schedule 'A' and in addition:

Seq #	Description	Facility #
1)	Permit the Bank to visit the permit the premise at least once every three years or as applicable.	ALL
2)	Maintain a TD Bank account(s) from which all business debit and credit transactions are to flow.	ALL
3)	Immediately inform the Bank of any equipment failure with environmental impact which may require repair and/or remediation.	ALL
4)	Borrower to advise the Bank within 10 days of non-renewal of the fuel supplier contract and other material change in tenancy/rent income.	ALL
5)	The Borrower to provide the bank with a confirmation of the extension/renewal of TSSA license confirming compliance of all regulatory safety and standard set by the government for Gas station	ALL

### **REPORTING COVENANTS**

Seq #	Description	Facility #
1)	Annual review engagement financial statements within 120 calendar days of fiscal year end	ALL
2)	Provide a detailed Rent Roll for all commercial/residential tenants to the Bank within 120 days of the fiscal year end	ALL
3)	Provide confirmation to the Bank on an annual basis that taxes are current, such confirmation to be in a format acceptable to the Bank	ALL
4)	Provide annual confirmation of insurance policy to be "in-force" for 162 Front St. Sturgeon Falls ON, and coverage deemed adequate by the Bank.	ALL
5)	Renewed Ontario Fuel Safety License provided by TSSA to be provided within 120 days of fiscal year end.	ALL
6)	Delivery of a Personal Financial Statement and Privacy Agreement from the Guarantor(s) and such supporting documentation as the Bank may reasonably request	ALL

### **NEGATIVE COVENANTS**

So long as any amounts remain outstanding and unpaid under this Agreement or so long as any commitment under this Agreement remains in effect, the Borrower will and will ensure that its subsidiaries and each of the Guarantors will observe the Negative Covenants set out in Schedule 'A' and in addition:

Seq #	Description	Facility #
1)	No further encumbrances on the subject property without the Bank's prior written consent.	ALL

### **PERMITTED LIENS**

Permitted Liens as referred to in Schedule 'A' are:

Seq #	Description	Facility #
1)	Purchase Money Security Interests in equipment which Purchase Money Security Interests exist on the date of this Agreement ("Existing PMSIs") which are known to the Bank and all future Purchase Money Security Interests on equipment acquired to replace the equipment under Existing PMSIs, provided that the cost of	ALL

	such replacement equipment may not exceed the cost of the equipment subject to the Existing PMSI by more than 10%	
--	---	--

**FINANCIAL COVENANTS**

The Borrower agrees at all times to:

Seq #	Description	Facility #
1)	Borrower shall maintain a Debt Service Coverage ratio (DSC) of not less than 150% to be tested annually.  The DSC is calculated as follows:  (Earnings before Interest, Taxes, Depreciation, and Amortization - Unfinanced Capital Expenditures - Distributions) / (Principal + Interest)	ALL

**EVENTS OF DEFAULT**

The Bank may accelerate the payment of principal and interest under any committed credit facility hereunder and cancel any undrawn portion of any committed credit facility hereunder, at any time after the occurrence of any one of the Standard Events of Default contained in Schedule 'A' attached hereto and after any one of the following additional Events of Default:

Seq #	Description	Facility #
1)	Expiry or cancellation of TSSA License or any other certification required to operate a gas station.	ALL

**ANCILLARY FACILITIES**

As at the date of this Agreement, the following uncommitted ancillary products are made available. These products may be subject to other agreements.

Borrower A    3)    TD Visa Business card (or cards) for an aggregate amount CAD \$20,000

**AVAILABILITY OF OPERATING LOAN**

The Operating Loan is uncommitted, made available at the Bank's discretion, and is not automatically available upon satisfaction of the terms and conditions, conditions precedent, or financial tests set out herein.

The occurrence of an Event of Default is not a precondition to the Bank's right to accelerate repayment and cancel the availability of the Operating Loan.

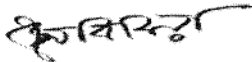
**SCHEDULE "A" - STANDARD TERMS AND CONDITIONS**

Schedule "A" sets out the Standard Terms and Conditions ("Standard Terms and Conditions") which apply to these credit facilities. The Standard Terms and Conditions, including the defined terms set out therein, form part of this Agreement, unless this letter states specifically that one or more of the Standard Terms and Conditions do not apply or are modified.

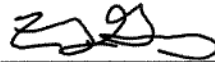
We trust you will find these facilities helpful in meeting your ongoing financing requirements. We ask that if you wish to accept this offer of financing (which includes the Standard Terms and Conditions), please do so by signing and returning the attached duplicate copy of this letter to the undersigned. This offer will expire if not accepted in writing and received by the Bank on or before **August 31, 2021**

Yours truly,

**THE TORONTO-DOMINION BANK**



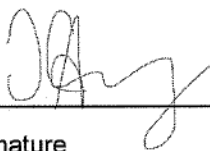
Siddique Zia  
Account Manager



Landon Gray  
Manager Commercial Services

**TO THE TORONTO-DOMINION BANK:**

2743732 ONTARIO INC. hereby accepts the foregoing offer this 14 day of August, 2021. The Borrower confirms that, except as may be set out above, the credit facility(ies) detailed herein shall not be used by or on behalf of any third party.



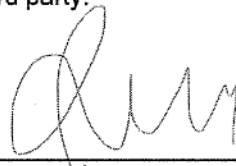
Signature

Sergei Homiakov

Print Name & Position owner

14 08 2021

Date:



Signature

Irena Gorzhaltzan

Print Name & Position own

14 08 2021

Date:

cc. Guarantor(s)

The Bank is providing the Guarantor(s) with a copy of this Letter as a courtesy only. The delivery of a copy of this Letter does not create any obligation of the Bank to provide the Guarantor(s) with notice of any changes to the credit facilities, including without limitation, changes to the terms and conditions, increases or decreases in the amount of the credit facilities, the establishment of new credit facilities or otherwise. The Bank may, or may not, at its option, provide the Guarantor(s) with such information, provided that the Bank will provide such information upon the written request of the Guarantor.

**SCHEDULE A**  
**STANDARD TERMS AND CONDITIONS**

**1. INTEREST RATE DEFINITIONS**

Prime Rate means the rate of interest per annum (based on a 365 day year) established and reported by the Bank to the Bank of Canada from time to time as the reference rate of interest for determination of interest rates that the Bank charges to customers of varying degrees of creditworthiness in Canada for Canadian dollar loans made by it in Canada.

The Stamping Fee rate per annum for CAD\$ B/As is based on a 365 day year and the Stamping Fee is calculated on the Face Amount of each B/A presented to the Bank for acceptance. The Stamping Fee rate per annum for USD\$ B/As is based on a 360 day year and the Stamping Fee is calculated on the Face Amount of each B/A presented to the Bank for acceptance.

CDOR means, for any day, the annual rate for B/As denominated in Canadian Dollars for a specified term that appears on the Reuters Screen CDOR Page as of 10:00 a.m. (Toronto time) on such day (or, if such day is not a Business Day, then on the immediately preceding Business Day).

LIBOR means the rate of interest per annum (based on a 360 day year) as determined by the Bank (rounded upwards, if necessary to the nearest whole multiple of 1/16th of 1%) at which the Bank may make available United States dollars which are obtained by the Bank in the Interbank Euro Currency Market, London, England at approximately 11:00 a.m. (Toronto time) on the second Business Day before the first day of, and in an amount similar to, and for the period similar to the interest period of, such advance.

USBR means the rate of interest per annum (based on a 365 day year) established by the Bank from time to time as the reference rate of interest for the determination of interest rates that the Bank charges to customers of varying degrees of creditworthiness for US dollar loans made by it in Canada.

Interest rates will never be less than zero. If Prime Rate, CDOR, LIBOR, USBR or any other applicable base rate changes, resulting in a variable or floating annual interest rate that is a negative number, the interest rate will be 0.00%.

Any interest rate based on a period less than a year expressed as an annual rate for the purposes of the Interest Act (Canada) is equivalent to such determined rate multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days in the period upon which it was based.

**2. INTEREST CALCULATION AND PAYMENT**

Interest on Prime Based Loans and USBR Loans is calculated daily (including February 29 in a leap year) and payable monthly in arrears based on the number of days the subject loan is outstanding unless otherwise provided in the Rate and Payment Terms Notice. Interest is charged on February 29 in a leap year.

The Stamping Fee is calculated based on the amount and the term of the B/A and is payable upon acceptance by the Bank of the B/A. The net proceeds received by the Borrower on a B/A advance will be equal to the Face Amount of the B/A discounted at the Bank's then prevailing B/A discount rate for CAD\$ B/As or USD\$ B/As as the case may be, for the specified term of the B/A less the B/A Stamping Fee. If the B/A discount rate (or the rate used to determine the B/A discount rate) is less than zero, it shall instead be deemed to be zero for purposes of this Agreement.

Interest on LIBOR Loans and CDOR Loans is calculated and payable on the earlier of contract maturity or quarterly in arrears, for the number of days in the LIBOR or CDOR interest period, as applicable.

L/C and L/G fees are payable at the time set out in the Letter of Credit Indemnity Agreement applicable to the issued L/C or L/G.

Interest on Fixed Rate Term Loans is compounded monthly and payable monthly in arrears unless otherwise provided in the Rate and Payment Terms Notice.

Interest is payable both before and after maturity or demand, default and judgment.

Each payment under this Agreement shall be applied first in payment of costs and expenses, then interest and fees and the balance, if any, shall be applied in reduction of principal.

For loans not secured by real property, all overdue amounts of principal and interest and all amounts outstanding in excess of the Credit Limit shall bear interest from the date on which the same became due or from when the excess was incurred, as the case may be, until the date of payment or until the date the excess is repaid at the Bank's standard rate charged from time to time for overdrafts, or such lower interest rate if the Bank agrees to a lower interest rate in writing. Nothing in this clause shall be deemed to authorize the Borrower to incur loans in excess of the Credit Limit.

If any provision of this Agreement would oblige the Borrower to make any payment of interest or other amount payable to the Bank in an amount or calculated at a rate which would be prohibited by law or would result in a receipt by the Bank of "interest" at a "criminal rate" (as such terms are construed under the Criminal Code (Canada)), then, notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by applicable law or so result in a receipt by the Bank of "interest" at a "criminal rate", such adjustment to be effected, to the extent necessary (but only to the extent necessary), as follows: first, by reducing the amount or rate of interest, and, thereafter, by reducing any fees, commissions, costs, expenses, premiums and other amounts required to be paid to the Bank which would constitute interest for purposes of section 347 of the Criminal Code (Canada).

### **3. DRAWDOWN PROVISIONS**

#### **Prime Based and USBR Loans**

There is no minimum amount of drawdown by way of Prime Based Loans and USBR Loans, except as stated in this Agreement. The Borrower shall provide the Bank with 3 Business Days' notice of a requested Prime Based Loan or USBR Loan over \$1,000,000.

#### **B/As**

The Borrower shall advise the Bank of the requested term or maturity date for B/As issued hereunder. The Bank shall have the discretion to restrict the term or maturity dates of B/As. In no event shall the term of the B/A exceed the Contractual Term Maturity Date or Maturity Date, as applicable. Except as otherwise stated in this Agreement, the minimum amount of a drawdown by way of B/As is \$1,000,000 and in multiples of \$100,000 thereafter. The Borrower shall provide the Bank with 3 Business Days' notice of a requested B/A drawdown.

The Borrower shall pay to the Bank the full amount of the B/A at the maturity date of the B/A.

The Borrower appoints the Bank as its attorney to and authorizes the Bank to (i) complete, sign, endorse, negotiate and deliver B/As on behalf of the Borrower in handwritten form, or by facsimile or mechanical signature or otherwise, (ii) accept such B/As, and (iii) purchase, discount, and/or negotiate B/As.



### **LIBOR and CDOR**

The Borrower shall advise the Bank of the requested LIBOR or CDOR contract maturity or interest period. The Bank shall have the discretion to restrict the LIBOR or CDOR contract maturity. In no event shall the term of the LIBOR or CDOR contract exceed the Contractual Term Maturity Date or Maturity Date, as applicable. Except as otherwise stated in this Agreement, the minimum amount of a drawdown by way of a LIBOR Loan or a CDOR Loan is \$1,000,000, and shall be in multiples of \$100,000 thereafter. The Borrower will provide the Bank with 3 Business Days' notice of a requested LIBOR Loan or CDOR Loan.

### **L/C and/or L/G**

The Bank shall have the discretion to restrict the maturity date of L/Gs or L/Cs.

### **B/A, LIBOR and CDOR - Conversion**

Any portion of any B/A, LIBOR or CDOR Loan that is not repaid, rolled over or converted in accordance with the applicable notice requirements hereunder shall be converted by the Bank to a Prime Based Loan effective as of the maturity date of the B/A or the last day in the interest period of the LIBOR or CDOR contract, as applicable. The Bank may charge interest on the amount of the Prime Based Loan at the rate of 115% of the rate applicable to Prime Based Loans for the 3 Business Day period immediately following such maturity. Thereafter, the rate shall revert to the rate applicable to Prime Based Loans.

### **B/A, LIBOR and CDOR – Market Disruption**

If the Bank determines, in its sole discretion, that a normal market in Canada for the purchase and sale of B/As or the making of CDOR or LIBOR Loans does not exist, any right of the Borrower to request a drawdown under the applicable borrowing option shall be suspended until the Bank advises otherwise. Any drawdown request for B/As, LIBOR or CDOR Loans, as applicable, during the suspension period shall be deemed to be a drawdown notice requesting a Prime Based Loan in an equivalent amount.

### **LIBOR Discontinuation**

If the Bank determines (which determination shall be conclusive absent manifest error) that:

- (a) adequate and reasonable means do not exist for ascertaining LIBOR, LIBOR is not available or published on a current basis for a LIBOR Loan or for the applicable interest period and such circumstances are unlikely to be temporary;
- (b) the administrator of LIBOR or a governmental authority having jurisdiction over the administrator of LIBOR has made a public statement identifying a specific date after which LIBOR will permanently or indefinitely cease to be made available or permitted to be used for determining the interest rate of loans;
- (c) a governmental authority having jurisdiction over the Bank has made a public statement identifying a specific date after which LIBOR shall no longer be permitted to be used for determining the interest rate of loans (each such specific date in clause (b) above and in this clause (c) a "**LIBOR Scheduled Unavailability Date**");  
or
- (d) loans similar to this Facility are currently being executed, or that include language similar to that contained in this Section, are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace LIBOR,

then reasonably promptly after such determination by the Bank, the Bank shall provide notice to the Borrower of a successor rate to LIBOR, and the Bank and the Borrower agree that this Agreement shall be automatically amended 30 days after such notice is sent to the Borrower to replace LIBOR with an alternate benchmark rate (including any mathematical or other adjustments to the benchmark (if any) incorporated therein), giving due consideration to any evolving or then existing convention for similar United States Dollars denominated credit facilities for such alternative benchmarks (any such proposed rate, a "LIBOR Successor Rate"), together with any proposed LIBOR Successor Rate conforming changes to this Agreement and any such amendment shall become effective at 5:00 p.m. (Toronto time) on the thirtieth day after the Bank shall have provided such amendment to the Borrower. If no LIBOR Successor Rate has been determined and the circumstances above exist or a LIBOR Scheduled Unavailability Date has occurred (as applicable), the Bank will promptly so notify the Borrower. Thereafter, the obligation of the Bank to make or maintain LIBOR Loans shall be suspended (to the extent of the affected LIBOR Loans or interest periods). Upon receipt of such notice, the Borrower may revoke any pending request for an advance of, conversion to or rollover of LIBOR Loans (to the extent of the affected LIBOR Loans or interest periods) or, failing that, will be deemed to have converted such request into a request for an advance of US Base Rate Loans (subject to the foregoing) in the amount specified therein. Notwithstanding anything else herein, any definition of the LIBOR Successor Rate (exclusive of any margin) shall provide that in no event shall such LIBOR Successor Rate be less than zero for the purposes of this Agreement.

The Bank does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to LIBOR or the LIBOR Successor Rate including without limitation, whether the composition or characteristics of the LIBOR Successor Rate, will be similar to, or produce the same value or economic equivalence of, LIBOR or have the same volume or liquidity as did LIBOR prior to its discontinuance or unavailability.

#### **Cash Management**

The Bank may, and the Borrower hereby authorizes the Bank to, drawdown under the Operating Loan, Agriculture Operating Line or Farm Property Line of Credit to satisfy any obligations of the Borrower to the Bank in connection with any cash management service provided by the Bank to the Borrower. The Bank may drawdown under the Operating Loan, Agriculture Operating Line or Farm Property Line of Credit even if the drawdown results in amounts outstanding in excess of the Credit Limit.

#### **Notice**

Prior to each drawdown under a Fixed Rate Term Loan, other than a Long Term Farm Loan, an Agriculture Term Loan, a Canadian Agricultural Loans Act Loan, a Dairy Term Loan or a Poultry Term Loan and at least 10 days prior to the maturity of each Rate Term, the Borrower will advise the Bank of its selection of drawdown options from those made available by the Bank. The Bank will, after each drawdown, other than drawdowns by way of BA, CDOR, or LIBOR Loan or under the operating loan, send a Rate and Payment Terms Notice to the Borrower.

#### **4. PREPAYMENT**

##### **Fixed Rate Term Loans**

##### **10% Prepayment Option Chosen.**

- (a) Once, each calendar year, ("Year"), the Borrower may, provided that an Event of Default has not occurred, prepay in one lump sum, an amount of principal outstanding under a Fixed Rate Term Loan not exceeding 10% of the original amount of the Fixed Rate Term Loan, upon payment of all interest accrued to the date of prepayment without paying any prepayment charge. If the prepayment privilege is not used in one Year, it cannot be carried forward and used in a later Year.

- (b) Provided that an Event of Default has not occurred, the Borrower may prepay more than 10% of the original amount of a Fixed Rate Term Loan in any Year, upon payment of all interest accrued to the date of prepayment and an amount equal to the greater of:
- i) three months' interest on the amount of the prepayment (the amount of prepayment is the amount of prepayment exceeding the 10% limit described in Section 4(a)) using the interest rate applicable to the Fixed Rate Term Loan being prepaid; and
  - ii) the Yield Maintenance, being the difference between:
    - a. the current outstanding principal balance of the Fixed Rate Term Loan; and
    - b. the sum of the present values as of the date of the prepayment of the future payments to be made on the Fixed Rate Term Loan until the last day of a Rate Term, plus the present value of the principal amount of the Fixed Rate Term Loan that would have been due on the maturity of the Rate Term, when discounted at the Government of Canada bond yield rate with a term which has the closest maturity to the unexpired term of the Fixed Rate Term Loan.

#### **10% Prepayment Option Not Chosen.**

- (c) The Borrower may, provided that an Event of Default has not occurred, prepay all or any part of the principal then outstanding under a Fixed Rate Term Loan upon payment of all interest accrued to the date of prepayment and an amount equal to the greater of:
- i) three months' interest on the amount of the prepayment using the interest rate applicable to the Fixed Rate Term Loan being prepaid; and
  - ii) the Yield Maintenance, being the difference between:
    - a. the current outstanding principal balance of the Fixed Rate Term Loan; and
    - b. the sum of the present values as of the date of the prepayment of the future payments to be made on the Fixed Rate Term Loan until the last day of the Rate Term, plus the present value of the principal amount of the Fixed Rate Term Loan that would have been due on the maturity of the Rate Term when discounted at the Government of Canada bond yield rate with a term which has the closest maturity to the unexpired term of the Fixed Rate Term Loan.

#### **Floating Rate Term Loans**

The Borrower may prepay the whole or any part of the principal outstanding under a Floating Rate Term Loan, at any time without the payment of prepayment charges.

#### **5. STANDARD DISBURSEMENT CONDITIONS**

The obligation of the Bank to permit any drawdowns hereunder at any time is subject to the following conditions precedent:

- a) The Bank shall have received the following documents which shall be in form and substance satisfactory to the Bank:
  - i) A copy of a duly executed resolution of the Board of Directors of the Borrower empowering the Borrower to enter into this Agreement;
  - ii) A copy of any necessary government approvals authorizing the Borrower to enter into this Agreement;

- iii) All of the Bank Security and supporting resolutions and solicitors' letter of opinion required hereunder;
  - iv) The Borrower's compliance certificate certifying compliance with all terms and conditions hereunder;
  - v) All operation of account documentation; and
  - vi) For drawdowns under the Facility by way of L/C or L/G, the Bank's standard form Letter of Credit Indemnity Agreement
- b) The representations and warranties contained in this Agreement are correct.
  - c) No event has occurred and is continuing which constitutes an Event of Default or would constitute an Event of Default, but for the requirement that notice be given or time elapse or both.
  - d) The Bank has received the arrangement fee payable hereunder (if any) and the Borrower has paid all legal and other expenses incurred by the Bank in connection with the Agreement or the Bank Security.

#### **6. STANDARD REPRESENTATIONS AND WARRANTIES**

The Borrower hereby represents and warrants, which representations and warranties shall be deemed to be continually repeated so long as any amounts remain outstanding and unpaid under this Agreement or so long as any commitment under this Agreement remains in effect, that:

- a) The Borrower is a duly incorporated corporation, a limited partnership, partnership, or sole proprietorship, duly organized, validly existing and in good standing under the laws of the jurisdiction where the Branch/Centre is located and each other jurisdiction where the Borrower has property or assets or carries on business and the Borrower has adequate corporate power and authority to carry on its business, own property, borrow monies and enter into agreements therefore, execute and deliver the Agreement, the Bank Security, and documents required hereunder, and observe and perform the terms and provisions of this Agreement.
- b) There are no laws, statutes or regulations applicable to or binding upon the Borrower and no provisions in its charter documents or in any by-laws, resolutions, contracts, agreements, or arrangements which would be contravened, breached, violated as a result of the execution, delivery, performance, observance, of any terms of this Agreement.
- c) No Event of Default has occurred nor has any event occurred which, with the passage of time or the giving of notice, would constitute an Event of Default under this Agreement or which would constitute a default under any other agreement.
- d) There are no actions, suits or proceedings, including appeals or applications for review, or any knowledge of pending actions, suits, or proceedings against the Borrower and its subsidiaries, before any court or administrative agency which would result in any material adverse change in the property, assets, financial condition, business or operations of the Borrower.
- e) All material authorizations, approvals, consents, licenses, exemptions, filings, registrations and other requirements of governmental, judicial and public bodies and authorities required to carry on its business have been or will be obtained or effected and are or will be in full force and effect.

- f) The financial statements and forecasts delivered to the Bank fairly present the present financial position of the Borrower, and have been prepared by the Borrower and its auditors in accordance with the International Financial Reporting Standards or GAAP for Private Enterprises.
- g) All of the remittances required to be made by the Borrower to the federal government and all provincial and municipal governments have been made, are currently up to date and there are no outstanding arrears. Without limiting the foregoing, all employee source deductions (including income taxes, Employment Insurance and Canada Pension Plan), sales taxes (both provincial and federal), corporate income taxes, corporate capital taxes, payroll taxes and workers' compensation dues are currently paid and up to date.
- h) If the Bank Security includes a charge on real property, the Borrower or Guarantor, as applicable, is the legal and beneficial owner of the real property with good and marketable title in fee simple thereto, free from all easements, rights-of-way, agreements, restrictions, mortgages, liens, executions and other encumbrances, save and except for those approved by the Bank in writing.
- i) All information that the Borrower has provided to the Bank is accurate and complete respecting, where applicable:
  - i) the names of the Borrower's directors and the names and addresses of the Borrower's beneficial owners;
  - ii) the names and addresses of the Borrower's trustees, known beneficiaries and/or settlors; and
  - iii) the Borrower's ownership, control and structure.

## **7. STANDARD POSITIVE COVENANTS**

So long as any amounts remain outstanding and unpaid under this Agreement or so long as any commitment under this Agreement remains in effect, the Borrower will, and will ensure that its subsidiaries and each of the Guarantors will:

- a) Pay all amounts of principal, interest and fees on the dates, times and place specified herein, under the Rate and Payment Terms Notice, and under any other agreement between the Bank and the Borrower.
- b) Advise the Bank of any change in the amount and the terms of any credit arrangement made with other lenders or any action taken by another lender to recover amounts outstanding with such other lender.
- c) Advise promptly after the happening of any event which will result in a material adverse change in the financial condition, business, operations, or prospects of the Borrower or the occurrence of any Event of Default or default under this Agreement or under any other agreement for borrowed money.
- d) Do all things necessary to maintain in good standing its corporate existence and preserve and keep all material agreements, rights, franchises, licenses, operations, contracts or other arrangements in full force and effect.
- e) Take all necessary actions to ensure that the Bank Security and its obligations hereunder will rank ahead of all other indebtedness of and all other security granted by the Borrower.
- f) Pay all taxes, assessments and government charges unless such taxes, assessments, or charges are being contested in good faith and appropriate reserves shall be made with funds set aside in a separate trust fund.

- g) Provide the Bank with information and financial data as it may request from time to time, including, without limitation, such updated information and/or additional supporting information as the Bank may require with respect to any or all the matters in the Borrower's representation and warranty in Section 6(i).
- h) Maintain property, plant and equipment in good repair and working condition.
- i) Inform the Bank of any actual or probable litigation and furnish the Bank with copies of details of any litigation or other proceedings, which might affect the financial condition, business, operations, or prospects of the Borrower.
- j) Provide such additional security and documentation as may be required from time to time by the Bank or its solicitors.
- k) Continue to carry on the business currently being carried on by the Borrower its subsidiaries and each of the Guarantors at the date hereof.
- l) Maintain adequate insurance on all of its assets, undertakings, and business risks.
- m) Permit the Bank or its authorized representatives full and reasonable access to its premises, business, financial and computer records and allow the duplication or extraction of pertinent information therefrom.
- n) Comply with all applicable laws.

#### **8. STANDARD NEGATIVE COVENANTS**

So long as any amounts remain outstanding and unpaid under this Agreement or so long as any commitment under this Agreement remains in effect, the Borrower will not and will ensure that its subsidiaries and each of the Guarantors will not:

- a) Create, incur, assume, or suffer to exist, any mortgage, deed of trust, pledge, lien, security interest, assignment, charge, or encumbrance (including without limitation, any conditional sale, or other title retention agreement, or finance lease) of any nature, upon or with respect to any of its assets or undertakings, now owned or hereafter acquired, except for those Permitted Liens, if any, set out in the Letter.
- b) Create, incur, assume or suffer to exist any other indebtedness for borrowed money (except for indebtedness resulting from Permitted Liens, if any) or guarantee or act as surety or agree to indemnify the debts of any other Person.
- c) Merge or consolidate with any other Person, or acquire all or substantially all of the shares, assets or business of any other Person.
- d) Sell, lease, assign, transfer, convey or otherwise dispose of any of its now owned or hereafter acquired assets (including, without limitation, shares of stock and indebtedness of subsidiaries, receivables and leasehold interests), except for inventory disposed of in the ordinary course of business.
- e) Terminate or enter into a surrender of any lease of any property mortgaged under the Bank Security.
- f) Cease to carry on the business currently being carried on by each of the Borrower, its subsidiaries, and the Guarantors at the date hereof.
- g) Permit any change of ownership or change in the capital structure of the Borrower.

## **9. ENVIRONMENTAL**

The Borrower represents and warrants (which representation and warranty shall continue throughout the term of this Agreement) that the business of the Borrower, its subsidiaries and each of the Guarantors is being operated in compliance with applicable laws and regulations respecting the discharge, omission, spill or disposal of any hazardous materials and that any and all enforcement actions in respect thereto have been clearly conveyed to the Bank.

The Borrower shall, at the request of the Bank from time to time, and at the Borrower's expense, obtain and provide to the Bank an environmental audit or inspection report of the property from auditors or inspectors acceptable to the Bank.

The Borrower hereby indemnifies the Bank, its officers, directors, employees, agents and shareholders, and agrees to hold each of them harmless from all loss, claims, damages and expenses (including legal and audit expenses) which may be suffered or incurred in connection with the indebtedness under this Agreement or in connection with the Bank Security.

## **10. STANDARD EVENTS OF DEFAULT**

The Bank may accelerate the payment of principal and interest under any committed credit facility hereunder and cancel any undrawn portion of any committed credit facility hereunder, at any time after the occurrence of any one of the following Events of Default:

- a) Non-payment of principal outstanding under this Agreement when due or non-payment of interest or fees outstanding under this Agreement within 3 Business Days of when due.
- b) If any representation, warranty or statement made hereunder or made in connection with the execution and delivery of this Agreement or the Bank Security is false or misleading at any time.
- c) If any representation or warranty made or information provided by the Guarantor to the Bank from time to time, including without limitation, under or in connection with the Personal Financial Statement and Privacy Agreement provided by the Guarantor, is false or misleading at any time.
- d) If there is a breach or non-performance or non-observance of any term or condition of this Agreement or the Bank Security and, if such default is capable to being remedied, the default continues unremedied for 5 Business Days after the occurrence.
- e) If the Borrower, any one of its subsidiaries, or, if any of the Guarantors makes a general assignment for the benefit of creditors, files or presents a petition, makes a proposal or commits any act of bankruptcy, or if any action is taken for the winding up, liquidation or the appointment of a liquidator, trustee in bankruptcy, custodian, curator, sequestrator, receiver or any other officer with similar powers or if a judgment or order shall be entered by any court approving a petition for reorganization, arrangement or composition of or in respect of the Borrower, any of its subsidiaries, or any of the Guarantors or if the Borrower, any of its subsidiaries, or any of the Guarantors is insolvent or declared bankrupt.
- f) If there exists a voluntary or involuntary suspension of business of the Borrower, any of its subsidiaries, or any of the Guarantors.
- g) If action is taken by an encumbrancer against the Borrower, any of its subsidiaries, or any of the Guarantors to take possession of property or enforce proceedings against any assets.

- h) If any final judgment for the payment of monies is made against the Borrower, any of its subsidiaries, or any of the Guarantors and it is not discharged within 30 days from the imposition of such judgment.
- i) If there exists an event, the effect of which with lapse of time or the giving of notice, will constitute an event of default or a default under any other agreement for borrowed money in excess of the Cross Default Threshold entered into by the Borrower, any of its subsidiaries, or any of the Guarantors.
- j) If the Borrower, any one of its subsidiaries, or any of the Guarantors default under any other present or future agreement with the Bank or any of the Bank's subsidiaries, including without limitation, any other loan agreement, forward foreign exchange transactions, interest rate and currency and/or commodity swaps.
- k) If the Bank Security is not enforceable or if any party to the Bank Security shall dispute or deny any liability or any of its obligations under the Bank Security, or if any Guarantor terminates a guarantee in respect of future advances.
- l) If, in the Bank's determination, a material adverse change occurs in the financial condition, business operations or prospects of the Borrower, any of the Borrower's subsidiaries, or any of the Guarantors.
- m) If the Borrower or a Guarantor is an individual, the Borrower or such Guarantor dies or is found by a court to be incapable of managing his or her affairs.

#### **11. ACCELERATION**

If the Bank accelerates the payment of principal and interest hereunder, the Borrower shall immediately pay to the Bank all amounts outstanding hereunder, including without limitation, the amount of unmatured B/As, CDOR and LIBOR Loans and the amount of all drawn and undrawn L/Gs and L/Cs. All cost to the Bank of unwinding CDOR and LIBOR Loans and all loss suffered by the Bank in re-employing amounts repaid will be paid by the Borrower.

The Bank may demand the payment of principal and interest under the Operating Loan, Agriculture Operating Line or Farm Property Line of Credit (and any other uncommitted facility) hereunder and cancel any undrawn portion of the Operating Loan, Agriculture Operating Line or Farm Property Line of Credit (and any other uncommitted facility) hereunder, at any time whether or not an Event of Default has occurred.

#### **12. INDEMNITY**

The Borrower agrees to indemnify the Bank from and against any and all claims, losses and liabilities arising or resulting from this Agreement. USD\$ loans must be repaid with USD\$ and CAD\$ loans must be repaid with CAD\$ and the Borrower shall indemnify the Bank for any loss suffered by the Bank if USD\$ loans are repaid with CAD\$ or vice versa, whether such payment is made pursuant to an order of a court or otherwise. In no event will the Bank be liable to the Borrower for any direct, indirect or consequential damages arising in connection with this Agreement.



### **13. TAXATION ON PAYMENTS**

All payments made by the Borrower to the Bank will be made free and clear of all present and future taxes (excluding the Bank's income taxes), withholdings or deductions of whatever nature. If these taxes, withholdings or deductions are required by applicable law and are made, the Borrower, shall, as a separate and independent obligation, pay to the Bank all additional amounts as shall fully indemnify the Bank from any such taxes, withholdings or deductions.

### **14. REPRESENTATION**

No representation or warranty or other statement made by the Bank concerning any of the Facilities shall be binding on the Bank unless made by it in writing as a specific amendment to this Agreement.

### **15. CHANGING THE AGREEMENT**

- a) The Bank may, from time to time, unilaterally change the provisions of this Agreement where (i) the provisions of the Agreement relate to the Operating Loan, Agriculture Operating Line or Farm Property Line of Credit (and any other uncommitted facility) or (ii) such change is for the benefit of the Borrower, or made at the Borrower's request, including without limitation, decreases to fees or interest payable hereunder or (iii) where such change makes compliance with this Agreement less onerous to the Borrower, including without limitation, release of security. These changes can be made by the Bank providing written notice to the Borrower of such changes in the form of a specific waiver or a document constituting an amending agreement. The Borrower is not required to execute such waiver or amending agreement, unless the Bank requests the Borrower to sign such waiver or amending agreement. A change in the Prime Rate and USBR is not an amendment to the terms of this Agreement that requires notification to be provided to the Borrower.
- b) Changes to the Agreement, other than as described in a) above, including changes to covenants and fees payable by the Borrower, are required to be agreed to by the Bank and the Borrower in writing, by the Bank and the Borrower each signing an amending agreement.
- c) The Bank is not required to notify a Guarantor of any change in the Agreement, including any increase in the Credit Limit.

### **16. ADDED COST**

If the introduction of or any change in any present or future law, regulation, treaty, official or unofficial directive, or regulatory requirement, (whether or not having the force of law) or in the interpretation or application thereof, relates to:

- i) the imposition or exemption of taxation of payments due to the Bank or on reserves or deemed reserves in respect of the undrawn portion of any Facility or loan made available hereunder; or,
- ii) any reserve, special deposit, regulatory or similar requirement against assets, deposits, or loans or other acquisition of funds for loans by the Bank; or,
- iii) the amount of capital required or expected to be maintained by the Bank as a result of the existence of the advances or the commitment made hereunder;

and the result of such occurrence is, in the sole determination of the Bank, to increase the cost of the Bank or to reduce the income received or receivable by the Bank hereunder, the Borrower shall, on demand by the Bank, pay to the Bank that amount which the Bank estimates will compensate it for such additional cost or reduction in income and the Bank's estimate shall be conclusive, absent manifest error.

#### **17. EXPENSES**

The Borrower shall pay, within 5 Business Days following notification, all fees and expenses (including but not limited to all legal fees) incurred by the Bank in connection with the preparation, registration and ongoing administration of this Agreement and the Bank Security and with the enforcement of the Bank's rights and remedies under this Agreement and the Bank Security whether or not any amounts are advanced under the Agreement. These fees and expenses shall include, but not be limited, to all outside counsel fees and expenses and all in-house legal fees and expenses, if in-house counsel are used, and all outside professional advisory fees and expenses. The Borrower shall pay interest on unpaid amounts due pursuant to this paragraph at the All-In Rate plus 2% per annum.

Without limiting the generality of Section 25, the Bank or the Bank's agent, is authorized to debit any of the Borrower's accounts with the amount of the fees and expenses owed by the Borrower hereunder, including the registration fee in connection with the Bank Security, even if that debiting creates an overdraft in any such account. If there are insufficient funds in the Borrower's accounts to reimburse the Bank or its agent for payment of the fees and expenses owed by the Borrower hereunder, the amount debited to the Borrower's accounts shall be deemed to be a Prime Based Loan under the Operating Loan, the Agriculture Operating Line or Farm Property Line of Credit.

The Borrower will, if requested by the Bank, sign a Pre-Authorized Payment Authorization in a format acceptable to the Bank to permit the Bank's agent to debit the Borrower's accounts as contemplated in this Section.

#### **18. NON WAIVER**

Any failure by the Bank to object to or take action with respect to a breach of this Agreement or any Bank Security or upon the occurrence of an Event of Default shall not constitute a waiver of the Bank's right to take action at a later date on that breach. No course of conduct by the Bank will give rise to any reasonable expectation which is in any way inconsistent with the terms and conditions of this Agreement and the Bank Security or the Bank's rights thereunder.

#### **19. EVIDENCE OF INDEBTEDNESS**

The Bank shall record on its records the amount of all loans made hereunder, payments made in respect thereto, and all other amounts becoming due to the Bank under this Agreement. The Bank's records constitute, in the absence of manifest error, conclusive evidence of the indebtedness of the Borrower to the Bank pursuant to this Agreement.

The Borrower will sign the Bank's standard form Letter of Credit Indemnity Agreement for all L/Cs and L/Gs issued by the Bank.

With respect to chattel mortgages taken as Bank Security, this Agreement is the Promissory Note referred to in same chattel mortgage, and the indebtedness incurred hereunder is the true indebtedness secured by the chattel mortgage.

#### **20. ENTIRE AGREEMENTS**

This Agreement replaces any previous letter agreements dealing specifically with terms and conditions of the credit facilities described in the Letter. Agreements relating to other credit facilities made available by the Bank continue to apply for those other credit facilities. This Agreement, and if applicable, the Letter of Credit Indemnity Agreement, are the entire agreements relating to the Facilities described in this Agreement.

## **21. NON-MERGER**

Notwithstanding the execution, delivery or registration of the Bank Security and notwithstanding any advances made pursuant thereto, this Agreement shall continue to be valid, binding and enforceable and shall not merge as a result thereof. Any default under this Agreement shall constitute concurrent default under the Bank Security. Any default under the Bank Security shall constitute concurrent default under this Agreement. In the event of an inconsistency between the terms of this Agreement and the terms of the Bank Security, the terms of this Agreement shall prevail and the inclusion of any term in the Bank Security that is not dealt with in this Agreement shall not be an inconsistency.

## **22. ASSIGNMENT**

The Bank may assign or grant participation in all or part of this Agreement or in any loan made hereunder without notice to and without the Borrower's consent.

The Borrower may not assign or transfer all or any part of its rights or obligations under this Agreement.

## **23. RELEASE OF INFORMATION**

The Borrower hereby irrevocably authorizes and directs the Borrower's accountant, (the "Accountant") to deliver all financial statements and other financial information concerning the Borrower to the Bank and agrees that the Bank and the Accountant may communicate directly with each other.

## **24. FX CLOSE OUT**

The Borrower hereby acknowledges and agrees that in the event any of the following occur: (i) Default by the Borrower under any forward foreign exchange contract ("FX Contract"); (ii) Default by the Borrower in payment of monies owing by it to anyone, including the Bank; (iii) Default in the performance of any other obligation of the Borrower under any agreement to which it is subject; or (iv) the Borrower is adjudged to be or voluntarily becomes bankrupt or insolvent or admits in writing to its inability to pay its debts as they come due or has a receiver appointed over its assets, the Bank shall be entitled without advance notice to the Borrower to close out and terminate all of the outstanding FX Contracts entered into hereunder, using normal commercial practices employed by the Bank, to determine the gain or loss for each terminated FX contract. The Bank shall then be entitled to calculate a net termination value for all of the terminated FX Contracts which shall be the net sum of all the losses and gains arising from the termination of the FX Contracts which net sum shall be the "Close Out Value" of the terminated FX Contracts. The Borrower acknowledges that it shall be required to forthwith pay any positive Close Out Value owing to the Bank and the Bank shall be required to pay any negative Close Out Value owing to the Borrower, subject to any rights of set-off to which the Bank is entitled or subject.

## **25. SET-OFF**

In addition to and not in limitation of any rights now or hereafter granted under applicable law, the Bank may at any time and from time to time without notice to the Borrower or any other Person, any notice being expressly waived by the Borrower, set-off and compensate and apply any and all deposits, general or special, time or demand, provisional or final, matured or unmatured, in any currency, and any other indebtedness or amount payable by the Bank (irrespective of the place of payment or booking office of the obligation), to or for the credit of or for the Borrower's account, including without limitation, any amount owed by the Bank to the Borrower under any FX Contract or other treasury or derivative product, against and on account of the indebtedness and liability under this Agreement notwithstanding that any of them are contingent or unmatured or in a different currency than the indebtedness and liability under this Agreement.

When applying a deposit or other obligation in a different currency than the indebtedness and liability under this Agreement to the indebtedness and liability under this Agreement, the Bank will convert the deposit or other obligation to the currency of the indebtedness and liability under this Agreement using the exchange rate determined by the Bank at the time of the conversion.

## **26. SEVERABILITY**

In the event any one or more of the provisions of this Agreement shall for any reason, including under any applicable statute or rule of law, be held to be invalid, illegal or unenforceable, that part will be severed from this Agreement and will not affect the enforceability of the remaining provisions of this Agreement, which shall remain in full force and effect.

## **27. MISCELLANEOUS**

- i) The Borrower has received a signed copy of this Agreement;
- ii) If more than one Person, firm or corporation signs this Agreement as the Borrower, each party is jointly and severally liable hereunder, and the Bank may require payment of all amounts payable under this Agreement from any one of them, or a portion from each, but the Bank is released from any of its obligations by performing that obligation to any one of them;
- iii) Accounting terms will (to the extent not defined in this Agreement) be interpreted in accordance with accounting principles established from time to time by the Canadian Institute of Chartered Accountants (or any successor) consistently applied, and all financial statements and information provided to the Bank will be prepared in accordance with those principles;
- iv) This Agreement is governed by the law of the Province or Territory where the Branch/Centre is located;
- v) Unless stated otherwise, all amounts referred to herein are in Canadian dollars.

## **28. DEFINITIONS**

Capitalized Terms used in this Agreement shall have the following meanings:

*"All-In Rate"* means the greater of the interest rates that the Borrower pays for Floating Rate Loans or the highest fixed rate paid for Fixed Rate Term Loans.

*"Agreement"* means the agreement between the Bank and the Borrower set out in the Letter and this Schedule "A" - Standard Terms and Conditions.

*"Business Day"* means any day (other than a Saturday or Sunday) that the Branch/Centre is open for business.

*"Branch/Centre"* means The Toronto-Dominion Bank branch or banking centre noted on the first page of the Letter, or such other branch or centre as may from time to time be designated by the Bank.

*"Contractual Term Maturity Date"* means the last day of the Contractual Term period. If the Letter does not set out a specific Contractual Term period but rather refers to a period of time up to which the Contractual Term Maturity Date can occur, the Bank and the Borrower must agree on a Contractual Term Maturity Date before first drawdown, which Contractual Term Maturity Date will be set out in the Rate and Payments Terms Notice.

*"Cross Default Threshold"* means the cross default threshold set out in the Letter. If no such cross default threshold is set out in the Letter it will be deemed to be zero.

*"Face Amount"* means, in respect of:

- (i) a B/A, the amount payable to the holder thereof on its maturity;
- (ii) A L/C or L/G, the maximum amount payable to the beneficiary specified therein or any other Person to whom payments may be required to be made pursuant to such L/C or L/G.

"Fixed Rate Term Loan" means any drawdown in Canadian dollars under a Facility at an interest rate which is fixed for a Rate Term at such rate as is determined by the Bank at its sole discretion.

"Floating Rate Loan" means any loan drawn down, converted or extended under a Facility at an interest rate which is referenced to a variable rate of interest, such as the Prime Rate.

"Inventory Value" means, at any time of determination, the total value (based on the lower of cost or market) of the Borrower's inventories that are subject to the Bank Security (other than (i) those inventories supplied by trade creditors who at that time have not been fully paid and would have a right to repossess all or part of such inventories if the Borrower were then either bankrupt or in receivership, (ii) those inventories comprising work in process and (iii) those inventories that the Bank may from time to time designate in its sole discretion) minus the total amount of any claims, liens or encumbrances on those inventories having or purporting to have priority over the Bank.

"Letter" means the letter from the Bank to the Borrower to which this Schedule "A" - Standard Terms and Conditions is attached.

"Letter of Credit" or "L/C" means a documentary letter of credit or similar instrument in form and substance satisfactory to the Bank.

"Letter of Guarantee" or "L/G" means a stand-by letter of guarantee or similar instrument in form and substance satisfactory to the Bank.

"Maturity Date" for a Facility, means the date on which all amounts outstanding under such Facility are due and payable to the Bank.

"Person" includes any individual, sole proprietorship, corporation, partnership, joint venture, trust, unincorporated association, association, institution, entity, party, or government (whether national, federal, provincial, state, municipal, city, county, or otherwise and including any instrumentality, division, agency, body, or department thereof).

"Purchase Money Security Interest" means a security interest on an asset which is granted to a lender or to the seller of such asset in order to secure the purchase price of such asset or a loan incurred to acquire such asset, provided that the amount secured by the security interest does not exceed the cost of the asset and provided that the Borrower provides written notice to the Bank prior to the creation of the security interest, and the creditor under the security interest has, if requested by the Bank, entered into an inter-creditor agreement with the Bank, in a format acceptable to the Bank.

"Rate Term" means that period of time as selected by the Borrower from the options offered to it by the Bank, during which a Fixed Rate Term Loan will bear a particular interest rate. If no Rate Term is selected, the Borrower will be deemed to have selected a Rate Term of 1 year.

"Rate and Payment Terms Notice" means the written notice sent by the Bank to the Borrower setting out the interest rate and payment terms for a particular drawdown.

"Receivable Value" means, at any time of determination, the total value of those of the Borrower's trade accounts receivable that are subject to the Bank Security other than (i) those accounts then outstanding for 90 days, (ii) those accounts owing by Persons, firms or corporations affiliated with the Borrower, (iii) those accounts that the Bank may from time to time designate in its sole discretion, (iv) those accounts subject to any claim, liens, or encumbrance having or purporting to have priority over the Bank, (v) those accounts which are subject to a claim of set-off by the obligor under such account, MINUS the total amount of all claims, liens, or encumbrances on those receivables having or purporting to have priority over the Bank.

*"Receivables/Inventory Summary"* means a summary of the Borrower's trade account receivables and inventories, in form as the Bank may require and certified by a senior officer/representative of the Borrower.

*"US\$" or "USD Equivalent"* means, on any date, the equivalent amount in United States Dollars after giving effect to a conversion of a specified amount of Canadian Dollars to United States Dollars at the exchange rate determined by the Bank at the time of the conversion.



GTA East Commercial Banking Centre  
305 Milner Ave, Suite 702  
Scarborough, ON  
M1B 3V4  
Telephone No.: (416) 291 8611  
Fax No.: (416) 291 8373

January 24, 2023

2743732 ONTARIO INC.  
162 Front St  
Sturgeon Falls, Ontario  
P2B 2H8

Attention: Mr. Sergei Homiakov

Dear Mr. Homiakov,

The following amending agreement (the "Amending Agreement") amends the terms and conditions of the credit facilities (the "Facilities") provided to the Borrower pursuant to the Agreement dated August 13, 2021:

**BORROWER**

2743732 ONTARIO INC. (the "Borrower")

**LENDER**

The Toronto-Dominion Bank (the "Bank"), through its GTA East Commercial Banking Centre in Scarborough, ON.

**CREDIT LIMIT**

Borrower A: 1) CAD \$35,000  
This limit has been amended

**POSITIVE COVENANTS**

Add the following:

6) The borrower to deposit cash generated from operating activity to TD bank account.

**REPORTING COVENANTS**

Add the following:

7) Provide an annual Point of Sale terminal report confirming total credit card sales completed in the previous fiscal year within 120 calendar days of fiscal year end.

**SCHEDULE "A" -  
STANDARD TERMS  
AND CONDITIONS**

Schedule "A" sets out the Standard Terms and Conditions ("Standard Terms and Conditions") which apply to these credit facilities. The Standard Terms and Conditions, including the defined terms set out therein, form part of this Agreement, unless this letter states specifically that one or more of the Standard Terms and Conditions do not apply or are modified.

Unless otherwise stated, the amendments outlined above are in addition to the Terms and Conditions of the existing Agreement. All other terms and conditions remain unchanged.

**ACCURACY OF  
INFORMATION**

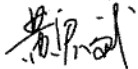
The Borrower hereby represents and warrants that all information that it has provided to the Bank is accurate and complete respecting, where applicable:

- (i) the names of the Borrower's directors and the names and addresses of the Borrower's beneficial owners;
- (ii) the names and addresses of the Borrower's trustees, known beneficiaries and/or settlors; and
- (iii) the Borrower's ownership, control and structure.

The Borrower will provide, or cause to be provided, such updated information and/or additional supporting information as the Bank may require from time to time with respect to any or all the matters in the Borrower's foregoing representation and warranty.

Yours truly,

**THE TORONTO-DOMINION BANK**



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Esther Huang  
Analyst, Commercial Banking



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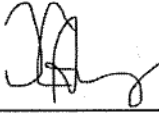
Ovais Khan  
Senior Manager, Commercial Credit



**Borrower Acknowledgement Section.**

**TO THE TORONTO-DOMINION BANK:**

2743732 ONTARIO INC. hereby accepts the foregoing offer this 15 day of Feb, 2023. The Borrower confirms that, except as may be set out above, the credit facility(ies) detailed herein shall not be used by or on behalf of any third party.



\_\_\_\_\_  
Signature

Sergei Homiakov

\_\_\_\_\_  
Print Name & Position

This is Exhibit "D" of  
the Affidavit of Amanda Bezner  
Sworn before me this 27<sup>th</sup> day of April, 2023

DocuSigned by:

*Matilda Lici*

7CE576F4AA3D4CA

---

A Commissioner, etc.



TO: The Toronto-Dominion Bank (the "Bank")

Branch of the Bank: #1060 10909 Yonge Street NR, Elgin Mills, Richmond Hill, Ontario L4C 3E3

Granted By: 2743732 ONTARIO INC.

(the "Grantor")

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor agrees with the Bank as follows:

**1. Security Interest**

The Grantor hereby grants to the Bank a security interest in, and assigns (other than with respect to trade-marks), mortgages, charges and pledges (collectively, the "Security Interest") to the Bank, all property of the Grantor, including all present and after acquired personal property and all other property, assets and undertaking of the kind hereinafter described below, in which the Grantor now has, or hereafter acquires, any right, title or interest, and accretions and accessions thereto (collectively called the "Collateral"):

- (a) **Intangibles.** All intangible property not otherwise described in this Section 1, including all contractual rights and insurance claims, options, permits, licences, quotas, subsidies, franchises, orders, judgments, patents, trademarks, trade names, trade secrets and know-how, inventions, goodwill, copyrights and other intellectual property of the Grantor, including any right or licence to use intellectual property belonging to a third party together with any specified collateral described in Schedule "A" hereto (collectively called "Intangibles");
- (b) **Chattel Paper and Documents of Title.** All chattel paper and all warehouse receipts, bills of lading and other documents of title, whether negotiable or not;
- (c) **Deposits and Credit Balances.** All monies and credit balances, including interest due thereon, which are now or may hereafter from time to time be on deposit with or standing to the credit of the Grantor with the Bank or any other bank, financial institution or other Person;
- (d) **Books and Records.** All deeds, documents, writings, papers, books of account and other books and records in any form, electronic or otherwise, relating to or evidencing any of the Collateral;
- (e) **Accounts and Book Debts.** All debts, accounts, claims and choses in action for moneys now due or owing or accruing due or which may hereafter become due or owing to the Grantor, including claims against the Crown in right of Canada or of any province, moneys which may become payable under any policy of insurance (collectively called "Accounts and Book Debts"), together with all contracts, securities, bills, notes, lien notes, judgments, mortgages, letters of credit and advices of credit, and all other rights, benefits and documents which are now or which may be taken, vested in or held by the Grantor in respect of or as security for the Accounts and Book Debts or any part thereof, and the full benefit and advantage thereof and all rights of actions, claims or demands which the Grantor now has or may hereafter have in respect of the foregoing;
- (f) **Equipment.** All tools, machinery, apparatus, equipment, vehicles, furniture, plants, fixtures, and other tangible personal property, other than Inventory, wherever situate, including the assets, if any, described in Schedule "A" hereto (collectively called "Equipment");
- (g) **Inventory.** All goods forming the inventory of the Grantor, of whatever kind and wherever located, whether raw material, work in process or finished goods held for sale, lease or resale, or furnished or to be furnished under contracts for service or used or consumed in the business of the Grantor, goods used in or procured for packing or packaging, timber cut or to be cut, oil, gas and minerals extracted or to be extracted, all livestock and the young thereof after conception and all crops which become such within one year after the date of execution of this Agreement (collectively called "Inventory");
- (h) **Instruments.** All bills, notes, cheques, letters of credit and other instruments, whether negotiable or not (collectively called "Instruments");
- (i) **Securities.** All shares, stocks, warrants, options, bonds, debentures, debenture stock and all other securities and investment property of any kind and all instruments, whether negotiable or non-negotiable, and interest thereon and dividends, whether in shares, money or property, received or receivable upon or in respect of any securities and other investment property and all money or other property paid or payable on account of any return on, or repayment of, capital in respect of any securities or otherwise distributed or distributable in respect thereof or that will in any way be charged to, or be payable out of or in respect of, the capital of the issuer of the securities (collectively called "Securities");
- (j) **Real Property.** All real and immovable property, both freehold and leasehold, together with all buildings and fixtures (collectively called "Real Property"), and all rights under any lease or agreement relating to Real Property;

- (k) **Proceeds.** All proceeds of the property described above, including any property in any form derived directly or indirectly from any use or dealing with the property described above or the proceeds therefrom or that indemnifies or compensates for damage or loss to such property or the proceeds therefrom, including the money held in banks, financial institutions or any other Person (collectively called "Proceeds");

provided that (i) the Security Interest does not and will not extend to, and the Collateral will not include, any agreement, lease, right, franchise, licence or permit (the "contractual rights") to which the Grantor is a party or of which the Grantor has the benefit, to the extent that the Security Interest would permit any person to terminate the contractual rights unless the consent of one or more Persons has been obtained and until such consent has been obtained, which the Grantor agrees it will use commercially reasonable efforts to obtain if requested by the Bank, the Grantor agrees to hold its interest therein in trust for the Bank, and notwithstanding the foregoing, contractual rights shall not include any account or chattel paper; and (ii) with respect to Real Property, (A) the Security Interest granted hereby is constituted by way of a floating charge, but will become a fixed charge upon the earlier of the Obligations becoming immediately payable, and the occurrence of any other event that by operation of law would result in such floating charge becoming a fixed charge; and (B) the assignment, mortgage and charge granted hereby will not extend to the last day of the term of any lease or agreement relating to Real Property, but the Grantor will hold such last day in trust for the Bank and, upon the enforcement by the Bank of its Security Interest, will assign such last day as directed by the Bank.

## 2. Obligations Secured

The Security Interest secures the payment and performance of all present and future obligations of the Grantor to the Bank, including all debts and liabilities, direct or indirect, absolute or contingent, matured or not, wheresoever and howsoever incurred, whether incurred before, at the time of, or after the execution of this Agreement, whether the indebtedness and liability is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again, whether arising from dealings between the Bank and the Grantor or from other dealings or proceedings by which the Bank may be or become in any manner whatsoever a creditor of the Grantor, and in any currency, whether incurred by the Grantor alone or with another or others and whether as a principal or surety, including all interest thereon and all amounts owed by the Grantor under this Agreement for fees, costs and expenses and in respect of indemnities granted under this Agreement (collectively called the "Obligations").

## 3. Definitions

- (a) Any word or term that is not otherwise defined in this Agreement shall have the meaning given to it in the *Personal Property Security Act* of the province in which the Branch of the Bank is located, as amended from time to time, and being referred to in this Agreement as the "PPSA". Any reference herein to "Collateral" shall, unless the context requires otherwise, be deemed to be a reference to "Collateral or any part thereof".
- (b) The following terms shall have the respective meanings set out below:

"*Branch of the Bank*" means the branch of the Bank located at the address specified above.

"*Business Day*" means any day other than a Saturday, Sunday or statutory holiday in the province in which the Branch of the Bank is located.

"*Control Agreement*" means:

- (a) with respect to any uncertificated security, an agreement between the issuer of such uncertificated security and any Person whereby such issuer agrees to comply with instructions that are originated by such Person in respect of such uncertificated security, without the further consent of the Grantor; and
- (b) with respect to any securities account or security entitlement, an agreement between the securities intermediary which maintains the particular securities account to which security entitlements included in the Collateral relate and any Person whereby such securities intermediary agrees to comply with any entitlement orders with respect to such securities accounts or security entitlements that are originated by such Person, without the further consent of the Grantor.

"*Person*" means any individual, sole proprietorship, joint venture, partnership, corporation, company, firm, association, co-operative, estate, government, government agency, regulatory authority, trust, or any entity of any nature.

## 4. Representations & Warranties

The Grantor hereby represents and warrants with the Bank and so long as this Agreement remains in effect shall be deemed to continuously represent and warrant that:

- (a) **Location of Head Office.** The address of the Grantor's chief executive office and the office where it keeps its records respecting the Accounts and Book Debts (the "Head Office") is set out below the name of the Grantor on the signature page of this Agreement;

- (b) **Location of Collateral.** The Collateral which is goods is or will be located at the address set out on the signature page of this Agreement or at the locations specified in Schedule "A" hereto or such other locations as have been agreed to by the Bank in writing, except for (i) goods in transit to such locations and (ii) Inventory on lease or consignment, but including all fixtures, crops, oil, gas or other minerals to be extracted and all timber to be cut which forms part of the Collateral;
- (c) **Collateral Free and Clear.** The Collateral (other than Real Property) is the sole property of the Grantor free and clear of all security interests, liens, charges, mortgages, hypothecs, leases, licenses, infringements by third parties, encumbrances, statutory liens or trusts, other adverse claims or interests, or any rights of others, except for those security interests which are expressly approved by the Bank in writing prior to their creation or assumption;
- (d) **Amount of Accounts.** Each Account and Book 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 the Grantor to the Bank from time to time as owing by each Account Debtor or by all Account Debtors will be the correct amount unconditionally owing by such Account Debtor or Account Debtors, and no Account Debtor will have any defence, set-off, claim or counterclaim against the Grantor which can be asserted against the Bank, whether in any proceeding to enforce Collateral or otherwise;
- (e) **Status and Binding Obligation.** The Grantor (i) if a corporation or company, has been duly incorporated, amalgamated or continued, as the case may be, and is validly existing as a corporation or company, as the case may be, under the laws of its jurisdiction of incorporation, amalgamation or continuance, as the case may be, (ii) if not a corporation or company, has been duly created or established as a partnership, limited partnership or other entity and validly exists under the laws of the jurisdiction in which it has been created or established, and (iii) is duly qualified to carry on business and own property in each jurisdiction where it carries on business or where any of its property is located. The Grantor has adequate power, capacity and authority to carry on its business, own property, borrow monies and enter into agreements therefor, execute and deliver this Agreement, and perform its obligations under this Agreement, which Agreement constitutes a legally valid and binding obligation of the Grantor enforceable in accordance with its terms. The making of this Agreement will not result in the breach of, constitute a default under, contravene any provision of, or result in the creation of, any lien, charge, security interest, encumbrance or any other rights of others upon any property of the Grantor pursuant to any agreement, indenture or other instrument to which the Grantor is a party or by which the Grantor or any of its property may be bound or affected; and
- (f) **Intellectual Property.** All intellectual property applications and registrations are valid, subsisting, unexpired, enforceable, in good standing and have not been abandoned and the Grantor is the owner of the applications and registrations.

## 5. Covenants

The Grantor covenants and agrees with the Bank that:

- (a) **Place of Business and Location of Collateral.** The Grantor shall not change its name or the location of its Head Office, amalgamate with any other Person, or move any of the Collateral from the address set out on the signature page of this Agreement or the locations specified in Schedule "A" hereto other than in accordance with clause 5(g), without the prior written consent of the Bank;
- (b) **Notification.** The Grantor shall notify the Bank promptly of: (i) any change in the information contained herein or in Schedule "A" hereto relating to the Grantor, the Grantor's business or Collateral; (ii) the details of any significant acquisition of Collateral; (iii) the details of any claims or litigation affecting the Grantor or the Collateral and will furnish the Bank with copies of the details of such claims or litigation; (iv) any loss or damage to Collateral or any material adverse change in the value of Collateral; and (v) any default by any Account Debtor in payment or other performance of its obligations with respect to Collateral;
- (c) **Performance of Obligations.** The Grantor shall observe and perform all its obligations under all material leases, licenses, undertakings and agreements to which it is a party, obtain and preserve its rights, powers, licences, privileges, franchises and goodwill thereunder, and comply with all applicable laws, by-laws, rules, regulations and ordinances in a proper and efficient manner so as to preserve and protect the Collateral and the business and undertaking of the Grantor in all material respects. The Grantor shall also pay all rents, taxes, rates, levies, assessments and government fees or dues levied, assessed or imposed in respect of the Collateral and other charges or any part thereof as and when the same become due and payable, and shall provide to the Bank, when requested, the receipts and vouchers evidencing payment;
- (d) **Limitations on Discounts, Extensions of Accounts and Compromises.** The Grantor shall not grant any extension of time for payment of any Accounts or Book Debts, or compromise, compound or settle any Accounts or Book Debts for less than the full amount, or release, wholly or partially, any Person liable for the payment of any Accounts or Book Debts, or allow any credit or discount of any Account or Book Debt, other than in the ordinary course of business of the Grantor and consistent with industry practices;

- (e) **Payment of Fees and Expenses.** The Grantor will pay the Bank on demand all costs, fees and expenses (including legal fees on a solicitor and his own client basis) incurred by the Bank in the preparation, execution, registration and perfection of this Agreement and the carrying out of any of the provisions of this Agreement, including, protecting and preserving the Security Interest and enforcing by legal process or otherwise the remedies provided herein. All such costs and expenses payable by the Grantor to the Bank shall bear interest from time to time at the highest interest rate then applicable to any of the Obligations, calculated and compounded monthly, and shall be added to and form part of the Obligations secured hereunder;
- (f) **Maintenance and Protection of Collateral/No Fixtures.** The Grantor shall care for, protect and preserve the Collateral and not permit its value to be impaired and will not permit the Collateral to be affixed to real or personal property so as to become a fixture or accession without the prior written consent of the Bank. The Grantor shall keep the Collateral in good order, condition and repair and shall not use the Collateral in violation of the provisions of this Agreement or any other agreement relating to the Collateral or any policy insuring the Collateral or any applicable statute, law, by-law, rule, regulation or ordinance. The Grantor will keep all licences, permits, agreements, registrations and applications relating to intellectual property used by Grantor in its business in good standing, unless otherwise agreed to in writing by the Bank. The Grantor shall apply to register all existing and future copyrights, trade-marks, patents, integrated circuit topographies and industrial designs whenever it is commercially reasonable to do so. The Grantor shall defend title to the Collateral against all claims and demands of all other Persons claiming the same or an interest therein and shall diligently initiate and prosecute legal action against every Person who infringes upon the Grantor's rights in intellectual property;
- (g) **Dealing with Collateral.** (i) The Grantor will not sell, lease, transfer, assign, deliver or otherwise dispose of the Collateral or any interest therein without the prior written consent of the Bank, except that the Grantor may, until an event of default as hereinafter provided occurs, deal with any Inventory or Real Property (other than fixtures financed by the Bank and any replacements or substitutions therefor) in the ordinary course of business so that the purchaser thereof takes title thereto free and clear of the Security Interest; (ii) All Proceeds shall continue to be subject to the Security Interest, granted hereby and all money received by the Grantor as Proceeds, other than from the sale of Inventory, shall be received as trustee for the Bank and shall be held separate and apart from other money of the Grantor, and shall be paid over to the Bank upon request; (iii) All money collected or received by the Bank in respect of the Collateral may be applied on account of such parts of the Obligations as the Bank in its sole discretion determines, or may be held unappropriated in a collateral account, or in the discretion of the Bank may be released to the Grantor, all without prejudice to the Bank's rights against the Grantor; (iv) Before an event of default occurs hereunder, the Bank may give notice of this Agreement and the Security Interest to any Account Debtor who is obligated to the Grantor under any of the Accounts and Book Debts and, after the occurrence of an event of default hereunder, may give notice to any such Account Debtor to make all further payments to the Bank, and any payment or other Proceeds received by the Grantor from an Account Debtor after an event of default whether before or after any notice is given by the Bank, shall be held by the Grantor in trust for the Bank and paid over to the Bank on request. The Bank shall have the right at any time and from time to time to verify the existence and state of the Collateral in any manner the Bank may consider appropriate and the Grantor agrees to furnish all assistance and information and to perform all such acts as the Bank may reasonably request in connection therewith and for such purpose to grant to the Bank or its agents access to all places where Collateral may be located and to all premises occupied by the Grantor;
- (h) **Maintenance of Records.** The Grantor will keep proper books of account in accordance with sound accounting practice and mark any and all such records and the Collateral at the Bank's request so as to indicate the Security Interest. The Grantor shall furnish to the Bank such financial information and statements and such information and statements relating to the Collateral as the Bank may from time to time require and shall permit the Bank or its agents at any time at the expense of the Grantor to examine the books of account and other financial records and reports relating to the Collateral and to make copies thereof and take extracts therefrom and to make inquiries of third parties for the purpose of verification of such information. The Grantor authorizes any Person holding any Books and Records to make them available, in a readable form, upon the request of the Bank. The Grantor will deliver to the Bank any Documents of Title, Instruments, Securities and Chattel Paper constituting, representing or relating to Collateral;
- (i) **Negative Pledge.** The Grantor will not create, incur, assume or suffer to exist, any mortgage, deed of trust, pledge, lien, security interest, assignment, charge, hypothec, encumbrance or statutory lien or trust (including any conditional sale, or other title retention agreement or finance lease) of any nature, on any of the Collateral (other than Real Property, but not including any fixtures financed by the Bank and any replacements or substitutions therefor) without the express prior written consent of the Bank;
- (j) **Insurance.** The Grantor will keep the Collateral insured under policies with such coverage, for such amounts and with such insurers as are satisfactory to the Bank from time to time, with loss thereunder, payable to the Bank and shall furnish the Bank with a copy of any policy of insurance, certificate of insurance or other evidence satisfactory to the Bank that such insurance coverage is in effect;
- (k) **Further Assurances.** The Grantor will from time to time forthwith, at the expense of the Grantor, duly authorize, execute and deliver such further instruments and documents, and take such further action, as the Bank may request for the purpose of obtaining or preserving the benefits of, and the rights and powers granted by, this Agreement (including the filing of any financing statements or financing change statements under any applicable legislation with respect to the Collateral) and for the purpose of correcting any deficiencies or clerical errors in this Agreement; and

- (l) **Landlord Agreement.** The Grantor will, at the request of the Bank, obtain a written agreement from each landlord of premises where any of the Collateral is located, in favour of the Bank and in form and substance satisfactory to the Bank, whereby such landlord agrees to give notice to the Bank of any default by the Grantor under the lease and a reasonable opportunity to cure such default prior to the exercise of any remedies by the landlord and acknowledges the Security Interest created by this Agreement and the right of the Bank to enforce the Security Interest created by this Agreement in priority to any claim of such landlord, including the right of the landlord to distraint on the Collateral for arrears of rent.

## 6. **Survival of Representations and Warranties and Covenants**

All agreements, representations, warranties and covenants made by the Grantor in this Agreement are material, will be considered to have been relied on by the Bank and will survive the execution and delivery of this Agreement or any investigation made at any time by or on behalf of the Bank and any disposition or payment of the Obligations until the indefeasible repayment and performance in full of the Obligations.

## 7. **Performance of Covenants by The Bank**

- (a) The Bank may, in its sole discretion and upon notice to the Grantor, perform any covenant of the Grantor under this Agreement that the Grantor fails to perform including any covenant the performance of which requires the payment of money, provided that the Bank will not be obligated to perform such covenant on behalf of the Grantor. The performance by the Bank of any such covenant shall not oblige the Bank to continue to perform any such covenant or other covenants nor relieve the Grantor from any default or derogate from the rights and remedies of the Bank under this Agreement. The Grantor agrees to indemnify and to reimburse the Bank for all costs and expenses incurred by the Bank in connection with the performance by it of any such covenant, and all such costs and expenses shall be payable by the Grantor to the Bank on demand, shall bear interest at the highest rate per annum applicable to any of the Obligations, calculated and compounded monthly, and shall be added to and form part of the Obligations.
- (b) In holding any Collateral, the Bank and any agent or nominee on its behalf is only bound to exercise the same degree of care as it would exercise with respect to similar property of its own or of similar value held in the same or similar location. The Bank and any agent or nominee on its behalf will be deemed to have exercised reasonable care with respect to the custody and preservation of the Collateral if it takes such action for that purpose as the Grantor reasonably requests in writing, but failure of the Bank or its nominees to comply with any such request will not of itself be deemed a failure to exercise reasonable care.

## 8. **Securities, Investment Property**

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

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

The Grantor has not consented to and covenants that it will not consent to, the entering into of a Control Agreement by: (a) any issuer of any uncertificated securities included in or relating to the Collateral; or (b) any securities intermediary for any securities accounts or security entitlements included in or relating to the Collateral, other than, in either case, a Control Agreement to which the Bank is a party.

Promptly upon request from time to time by the Bank, the Grantor shall:

- (a) enter into and use reasonable commercial efforts to cause any securities intermediary for any securities accounts or securities entitlements included in or relating to the Collateral to enter into a Control Agreement with the Bank with respect to such securities accounts or securities entitlements as the Bank requires in form and substance satisfactory to the Bank; and
- (b) enter into and use reasonable commercial efforts to cause any issuer of any uncertificated securities included in or relating to the Collateral to enter into a Control Agreement with the Bank with respect to such uncertificated securities in form and substance satisfactory to the Bank.

## 9. **Dealing with Security Interest**

The Bank may grant extensions of time and other indulgences, give up any of the Security Interest, abstain from perfecting any of the Security Interest, accept compositions, grant releases and discharges and waive rights against and otherwise deal with the Grantor, Account Debtors of the Grantor, sureties and others and with any of the Collateral and any other security as the Bank may see fit without prejudice to the liability of the Grantor or the Bank's right to hold and realize any of the Security Interest. The Bank shall not be accountable to the Grantor for the value of any of the Security Interest released except for any moneys actually received by the Bank.

## 10. Deposits and Credit Balances

Without limiting any other rights or remedies of the Bank, the Bank may, without notice to the Grantor or any other Person, any notice being expressly waived by the Grantor, set-off and apply all or any of the amounts standing to or for the credit of the Grantor at the Bank or any of the Bank's affiliates, in any currency, against and on account of all or any part of the Obligations, all as the Bank may see fit, whether or not the Obligations or the amounts standing to or for the credit of the Grantor are due and payable. The Bank is authorized and shall be entitled to make such debits, credits, correcting entries, and other entries to the Grantor's accounts and the Bank's records relating to the Grantor as the Bank regards as desirable in order to give effect to the Bank's rights hereunder and the Grantor agrees to be bound by such entries absent manifest error. When applying a deposit or other obligation in a different currency than the Obligations to the Obligations, the Bank will convert the deposit or other obligation to the currency of the Obligations using the rate of exchange for the conversion of such currency as determined by the Bank or its agents and the Bank or its agent may earn revenue on such conversion.

## 11. Events of Default

Obligations not payable on demand shall, at the option of the Bank, become immediately due and payable upon the occurrence of one or more of the following events (each, an "event of default"):

- (a) the Grantor fails to pay when due, whether by acceleration or otherwise, any of the Obligations;
- (b) the Grantor fails to perform any provision of this Agreement or of any other agreement to which the Grantor and the Bank are parties;
- (c) if any certificate, statement, representation, warranty, audit report or financial statement heretofore or hereafter furnished by or on behalf of the Grantor pursuant to or in connection with this Agreement, or as an inducement to the Bank to extend any credit to or to enter into this or any other agreement with the Grantor, is shown to have been false in any material respect or to have omitted any material fact; or if upon the date of execution of this Agreement, there shall have been any material adverse change in any of the facts disclosed by any such certificate, representation, statement, warranty, audit report or financial statement, which change shall not have been disclosed to the Bank at or prior to the time of such execution;
- (d) the Grantor ceases or threatens to cease to carry on business, commits an act of bankruptcy, becomes insolvent, proceedings or other actions are taken by or against the Grantor under the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) or similar legislation whether in Canada or elsewhere, or the Grantor transfers all or substantially all of its assets to another Person;
- (e) a receiver, trustee, custodian or other similar official is appointed in respect of the Grantor or any of the Grantor's property;
- (f) the institution by or against the Grantor of any formal or informal proceeding for the dissolution or liquidation or settlement of claims against or winding up of affairs of the Grantor;
- (g) an encumbrancer takes possession of any of the Collateral or any process of execution or distress is levied or enforced upon or against any of the Collateral;
- (h) any indebtedness or liability of the Grantor, other than to the Bank, becomes due and payable, or capable of being declared due and payable, before the stated maturity thereof or any such indebtedness or liability shall not be paid at the maturity thereof or upon the expiration of any stated applicable grace period thereof, or the Grantor fails to make payment when due under any guarantee given by the Grantor;
- (i) if the Grantor is an individual, the Grantor dies or is found by a court to be incapable of managing his or her affairs;
- (j) an execution or any other process of any court shall become enforceable against the Grantor;
- (k) if the Grantor is a partnership, the death of a partner; or
- (l) any other event which causes the Bank, in good faith, to deem itself insecure;

and the Bank shall not be required to make any further advances or other extension of credit that constitutes an Obligation.

## 12. Remedies

- (a) Upon the occurrence of an event of default that has not been cured or waived, the Bank, in addition to any right or remedy otherwise provided herein or by law or in equity, will have the rights and remedies set out below, which may be enforced successively or concurrently:
  - (i) to take such steps as the Bank considers desirable to maintain, preserve or protect the Collateral or its value;



- (ii) to take possession of the Collateral and require the Grantor to assemble the Collateral and deliver or make the Collateral available to the Bank at such place as may be specified by the Bank, and the Bank will not be or be deemed to be a mortgagee in possession by virtue of any such actions;
  - (iii) to exercise and enforce all rights and remedies of the Grantor with respect to the Collateral, including collecting and realizing upon all Accounts and Book Debts;
  - (iv) to carry on or concur in carrying on all or any part of the business of the Grantor;
  - (v) for the maintenance, preservation or protection of the Collateral or for carrying on any of the business of the Grantor, to borrow money on the security of the Collateral, which security will rank in priority to the Security Interest, or on an unsecured basis;
  - (vi) to the exclusion of all others, including the Grantor, to enter upon, occupy and use all or any of the premises, buildings and plants owned or occupied by the Grantor and use all or any of the Collateral of the Grantor for such time as the Bank requires to facilitate the preservation and realization of the Collateral, free of charge, and the Bank will not be liable to the Grantor for any neglect in so doing or in respect of any rent, charges, depreciation or damages in connection with such actions;
  - (vii) to sell, lease, license or otherwise dispose of or concur in selling, leasing, licensing or otherwise disposing of the Collateral upon such terms and conditions as the Bank may determine;
  - (viii) to dispose of any of the Collateral in the condition in which it was at the date possession of it was taken, or after any commercially reasonable repair, processing or preparation thereof for disposition;
  - (ix) if any part of the Collateral is perishable or will decline speedily in value, to sell or otherwise dispose of same without giving any notice of such disposition;
  - (x) to make any arrangement or compromise which the Bank shall think expedient in the interests of the Bank, including compromising any Accounts and Book Debts, and giving time for payment thereof with or without security;
  - (xi) to appoint a consultant or monitor, at the Grantor's expense, to evaluate the Grantor's business and the value of the Collateral, and to review the options available to the Bank; and
  - (xii) to appoint or reappoint by instrument in writing any person or persons, whether an officer or officers or employee or employees of the Bank or not, to be a receiver or receivers or a receiver and manager of the Collateral and remove or replace any person or persons so appointed or apply to any court for the appointment of a receiver or receiver and manager (each hereinafter called a "Receiver").
- (b) Any Receiver so appointed shall be deemed to be the agent of the Grantor and not the Bank, and the Grantor and not the Bank, shall be solely responsible for the Receiver's acts or defaults and for the Receiver's remuneration and expenses. The Bank shall not be in any way responsible for any misconduct, negligence or failure to act on the part of any such Receiver, its servants, agents or employees.
  - (c) The Grantor agrees to pay all costs, charges and expenses incurred by the Bank or any Receiver appointed by the Bank, whether directly or for services rendered (including reasonable legal and auditors' costs and expenses and Receiver remuneration), in operating the Grantor's accounts, in preparing or enforcing this Agreement, taking and maintaining custody of, preserving, repairing, processing, preparing for disposition and disposing of Collateral and in enforcing or collecting the Obligations, and all such costs, charges and expenses, together with any amounts owing as a result of any borrowing by the Bank or any Receiver appointed by the Bank, as permitted hereby, shall be a first charge on the Collateral and shall be secured hereby.
  - (d) The Bank will give the Grantor 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 PPSA.
  - (e) Upon default and receiving written demand from the Bank, the Grantor agrees to take such further action as may be necessary to evidence and effect an assignment or licensing of intellectual property to whomever the Bank directs, including to the Bank. The Grantor appoints any officer or employee of the Bank to be its attorney in accordance with applicable legislation with full power of substitution, to do on the Grantor's behalf anything that is required to assign, license or transfer, and to record any assignment, license 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.
  - (f) The Grantor authorizes the Bank 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 any Collateral or identifying the locations at which the Collateral is located and correcting any clerical errors or deficiencies in this Agreement) as the Bank 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. The Grantor hereby irrevocably constitutes and appoints the Bank and any of its officers or employees from time to time as the true and lawful attorney of the Grantor, with full power of substitution, to do any of the foregoing in the name of the Grantor whenever and wherever it may be deemed necessary or

expedient. This power of attorney, which is coupled with an interest, is irrevocable until the release or discharge of the Security Interest.

If the disposition of the Collateral fails to satisfy the Obligations secured by this Agreement including the expenses incurred by the Bank in connection with the preservation and realization of the Collateral as described above, the Grantor shall be liable to pay any deficiency to the Bank forthwith on demand.

### 13. Environmental License and Indemnity

The Grantor hereby grants to the Bank and its officers, employees and agents an irrevocable and non-exclusive license, subject to the rights of tenants, to enter any Real Property to conduct investigations, inspections, audits, testing and monitoring with respect to any contaminants or hazardous substances and to remove and analyze samples of any contaminants or hazardous substances at the cost and expense of the Grantor (which cost and expense will form part of the Obligations and will be payable immediately on demand and secured hereby). The Grantor hereby indemnifies and will indemnify the Bank and agrees to hold the Bank harmless against and from all losses, fines, penalties, costs, damages and expenses which the Bank may sustain, incur or be held to be or for which it may become liable, at any time whatsoever for or by reason of or arising from the past, present or future presence of or, clean-up, removal or disposal of any contaminants or hazardous substances from, on, under or adjacent to any Real Property owned by the Grantor or which may become owned or occupied by the Bank or as a result of the Bank's compliance with environmental laws or environmental orders relating thereto, including any clean-up, decommissioning, restoration or remediation of any Real Property owned or occupied by the Grantor or other affected or adjacent lands or property. This indemnification will survive the satisfaction, release or extinguishment of the Obligations created hereby

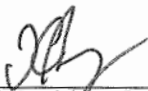
### 14. Miscellaneous

- (a) **Interpretation.** The division of this Agreement into Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "hereunder" and similar expressions refer to this Agreement (including any schedule now or hereafter annexed hereto) and not to any particular Section or other portion hereof. Unless otherwise specified, any reference herein to a Section or Schedule refers to the specified Section of or Schedule to this Agreement. In this Agreement: (i) words importing the singular number only shall include the plural and vice versa and words importing the masculine gender shall include the feminine and neuter genders and vice versa; (ii) the words "include", "includes" and "including" mean "include", "includes" or "including", in each case, "without limitation"; (iii) reference to any agreement or other instrument in writing means such agreement or other instrument in writing as amended, modified, replaced or supplemented from time to time; (iv) unless otherwise indicated, time periods within which a payment is to be made or any other action is to be taken hereunder shall be calculated excluding the day on which the period commences and including the day on which the period ends; and (v) whenever any payment to be made or action to be taken hereunder is required to be made or taken on a day other than a Business Day, such payment shall be made or action taken on the next following Business Day.
- (b) **Successors and Assigns.** This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns. In any action brought by an assignee of this Agreement and the Security Interest or any part thereof to enforce any rights hereunder, the Grantor shall not assert against the assignee any claim or defence which the Grantor now has or hereafter may have against the Bank.
- (c) **Amalgamation.** The Grantor 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 "Grantor" 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) in which any amalgamating company has any rights at the time of amalgamation and to any "Collateral" in which the amalgamated company thereafter has any rights, and (ii) shall secure the "Obligations" (as that term is herein defined) of each of the amalgamating companies and the amalgamated company to the Bank at the time of amalgamation and any "Obligations" of the amalgamated company to the Bank thereafter arising.
- (d) **Joint and Several.** If there is more than one Grantor named herein, the term "Grantor" shall mean all and each of them, their obligations under this Agreement shall be joint and several, the Obligations shall include those of all or any one of them and no Grantor shall have the right of subrogation, exoneration, reimbursement or indemnity whatsoever and no right of recourse to the Collateral for the Obligations hereunder unless and until all of the Obligations have been paid or performed in full, notwithstanding any change for any cause or in any manner whatsoever in the composition of or membership of any firm or company which is a party hereto.
- (e) **Attachment of Security Interest.** The Grantor acknowledges that value has been given and that the Security Interest granted hereby will attach when the Grantor signs this Agreement and will attach to Collateral in which the Grantor subsequently acquires any rights, immediately upon the Grantor acquiring such rights. The parties do not intend to postpone the attachment of any Security Interest created by this Agreement.

- (f) **No Obligation to Advance.** Neither the execution of this Agreement nor any advance of funds shall oblige the Bank to advance any funds or any additional funds or enter into any transaction or renew any note or extend any time for payment of any of the Obligations of the Grantor to the Bank.
- (g) **Information.** The Bank may provide any financial and other information it has about the Grantor, 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 anyone acting on behalf of the Bank.
- (h) **Assignment.** The Bank may assign or transfer any of its rights under this Agreement without the consent of the Grantor. The Grantor may not assign its obligations under this Agreement without the prior written consent of the Bank.
- (i) **Amendment.** Subject to Section 12(f) of this Agreement, no amendment to this Agreement will be valid or binding unless set forth in writing and duly executed by all of the parties hereto. No course of conduct by the Bank will be deemed to result in an amendment of this Agreement.
- (j) **Term.** This Agreement shall be a continuing agreement in every respect for the payment of the Obligations and it shall remain in full force and effect until all of the Obligations shall be indefeasibly paid in full or discharged by the Bank and until the Bank shall no longer have any commitment to the Grantor or any other Person, the fulfillment of which, might result in the creation of Obligations of the Grantor.
- (k) **Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable in any respect, such invalidity or unenforceability will not affect the validity or enforceability of the remaining provisions of this Agreement.
- (l) **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the jurisdiction where the Branch of the Bank is located.
- (m) **Waiver by the Bank.** No delay or omission by the Bank in exercising any right or remedy hereunder or with respect to any Obligations 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 of any other right or remedy. Furthermore, the Bank may remedy any default by the Grantor hereunder or with respect to any Obligations in any reasonable manner without waiving the default remedied and without waiving any other prior or subsequent default by the Grantor. No course of conduct of the Bank will give rise to any reasonable expectation which is in any way inconsistent with the terms and conditions of this Agreement or the Bank's rights hereunder. All rights and remedies of the Bank granted or recognized herein are cumulative and may be exercised at any time and from time to time independently or in combination.
- (n) **Waiver by the Grantor.** The Grantor waives protest of any Instrument constituting Collateral at any time held by the Bank on which the Grantor is in any way liable and, subject to clause 12(d) hereof, notice of any other action taken by the Bank.
- (o) **Non-Substitution.** The Security Interest is in addition to and not in substitution for any other security now or hereafter held by the Bank.
- (p) **Entire Agreement.** This Agreement including any schedule now or hereafter annexed hereto, constitutes the entire agreement between the Grantor and the Bank with respect to the subject matter hereof. There are no representations, warranties, terms and conditions, undertakings or collateral agreements, express, implied or statutory, between the parties except as expressly set forth in this Agreement.
- (q) **Acknowledgment.** The Grantor acknowledges receipt of a fully executed copy of this Agreement and, to the extent permitted by applicable law, waives the right to receive a copy of any financing statement, financing change statement or verification statement in respect of any registered financing statement or financing change statement prepared, registered or issued in connection with this Agreement.
- (r) **Execution.** The Grantor agrees that this Agreement may be executed electronically and in counterparts.

IN WITNESS WHEREOF the Grantor has executed this Agreement this 10th day of September, 2021.

2743732 ONTARIO INC.

Per:   
Sergei Homiakov - President  
I have authority to bind the  
Corporation

Per: \_\_\_\_\_

Signature: \_\_\_\_\_

\_\_\_\_\_  
Witness as to execution

Name: \_\_\_\_\_

[Address of Grantor]

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

[Address of Grantor]

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

[Address of Grantor]

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

[Address of Grantor]

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

[Address of Grantor]

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

[Address of Grantor]

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

[Address of Grantor]

**SCHEDULE "A"**

**DESCRIPTION OF EQUIPMENT/SERIAL NUMBERED GOODS**

<b>QUANTITY</b>	<b>DESCRIPTION</b>	<b>SERIAL NUMBER</b>
-----------------	--------------------	----------------------

**LOCATION OF COLLATERAL**

The Collateral is now and will hereafter be located at the following address(es) (include Street/Town/City and Province):

162 Front Street, Sturgeon Falls, Ontario P2B 2H8

**SPECIFIED COLLATERAL (Ontario only)**

Quota/Licence No. \_\_\_\_\_ issued by \_\_\_\_\_ (including any successor marketing board or licencing authority in respect of marketing or setting prices for the same commodity, their successors and assigns, in each case called the "Board") and proceeds therefrom.

**Additional Covenants of Customer Applicable to Above Collateral:**

1. By executing this Agreement, Grantor has granted an assignment to the Bank of any and all rights of the Grantor in and to the above quota/licence, any amendments, substitutions, additions or supplements thereto, and any proceeds thereof.
2. Grantor agrees to maintain all of the above quota/licence rights in good standing and to comply with all of the rules, regulations and orders of the Board issuing such quota/licence.
3. Grantor agrees not to apply to the Board for the transfer of the above quota/licence, in whole or in part, without the prior written consent of the Bank.
4. The security and/or rights hereby granted shall extend to and include all present and future acquired quota/licence rights issued by the Board to the Grantor, whether issued under the above quota/licence number or under any other such number.

RESOLUTION AUTHORIZING EXECUTION OF GENERAL SECURITY AGREEMENT


"RESOLVED THAT:

- (a) The President and the Secretary is hereby authorized for and on behalf of the Corporation to execute and deliver to The Toronto-Dominion Bank a General Security Agreement substantially in the form of the General Security Agreement (attached hereto and initialled by the Secretary for identification) presented to the directors, with such alterations, amendments, deletions or additions as may be approved by the persons executing the same and their execution shall be conclusive evidence of such approval and that the General Security Agreement so executed is the General Security Agreement authorized by this Resolution.
- (b) Any officer or director be and is hereby authorized to execute and deliver on behalf of the Corporation all such other documents and writings and to do such other acts and things as may be necessary or desirable for fulfilling the Corporation's obligations under the General Security Agreement."

**CERTIFICATE**

I hereby certify that the foregoing is a true and correct copy of a Resolution duly passed by the Directors of 2743732 ONTARIO INC.

on the 10th day of September, 2021 and that the said Resolution is now in full force and effect.

  
\_\_\_\_\_  
Secretary Sergei Homiakov C/S

This is Exhibit "E" of  
the Affidavit of Amanda Bezner  
Sworn before me this 27<sup>th</sup> day of April, 2023

DocuSigned by:

*Matilda Lici*

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A Commissioner, etc.

**Properties**

**PIN** 49080 - 0692 LT *Interest/Estate* Fee Simple  
**Description** PT LT 3 CON 1 SPRINGER PT 4 - 6 36R6873 SRO & PT 4 - 6 36R7620; WEST  
 NIPISSING ; DISTRICT OF NIPISSING  
**Address** 162 FRONT STREET  
 STURGEON FALLS

**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** 2743732 ONTARIO INC.  
**Address for Service** 298 Lennox Avenue, Richmond Hill,  
 Ontario L4C 2A7

I, Sergei Horniakov, 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** THE TORONTO-DOMINION BANK  
**Address for Service** Branch #1060, 10909 Yonge Street NR, Elgin Mills,  
 Richmond Hill, Ontario L4C 3E3

**Provisions**

**Principal** \$3,035,000.00 *Currency* CDN  
**Calculation Period** See Schedule 1  
**Balance Due Date**  
**Interest Rate** See Schedule 1  
**Payments**  
**Interest Adjustment Date**  
**Payment Date** On Demand  
**First Payment Date**  
**Last Payment Date**  
**Standard Charge Terms** 8520  
**Insurance Amount** See standard charge terms  
**Guarantor**

**Additional Provisions**

See Schedules

**Signed By**

Adriana Maria Greco 50 West Pearce St, Suite 10 acting for Signed 2021 09 14  
 Richmond Hill  
 L4B 1C5 Chargor(s)

Tel 905-763-3770

Fax 905-763-3772

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

**Submitted By**

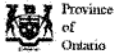
FIJ LAW LLP 50 West Pearce St, Suite 10 2021 09 14  
 Richmond Hill  
 L4B 1C5

Tel 905-763-3770

Fax 905-763-3772

**Fees/Taxes/Payment**





# Schedule 1

Form 5 - Land Registration Reform Act, 1984

S

Page 2 of \_\_\_\_\_

**Additional Property Identifier(s) and/or Other Information**

This is a Schedule to a Charge made between  
2743732 ONTARIO INC.  
and THE TORONTO-DOMINION BANK.

**Box (9)(b)** The Chargor hereby agrees to pay interest on the Principal Amount at the following Interest Rate:

- the Bank's Prime Rate plus 5.00 % per annum. "Prime Rate" means the rate of interest per annum established and reported by the Bank to the Bank of Canada from time to time as a reference rate of interest for the determination of interest rates that the Bank charges to customers of varying degrees of credit worthiness in Canada for Canadian dollar loans made by it in Canada.

**Box (9)(c)** Interest at the Interest Rate aforesaid is calculated and payable monthly, not in advance, before and after demand, default and judgment. Interest is payable on overdue interest and on Indebtedness payable under this Charge at the aforesaid Interest Rate. Any payment appropriated as a permanent reduction of this Charge shall be first applied against interest accrued hereunder.

FOR OFFICE  
USE ONLY

This is Exhibit "F" of  
the Affidavit of Amanda Bezner  
Sworn before me this 27<sup>th</sup> day of April, 2023

DocuSigned by:

*Matilda Lici*

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---

A Commissioner, etc.

**Properties**

**PIN** 49080 - 0692 LT  
**Description** PT LT 3 CON 1 SPRINGER PT 4 - 6 36R6873 SRO & PT 4 - 6 36R7620; WEST  
 NIPISSING ; DISTRICT OF NIPISSING  
**Address** 162 FRONT STREET  
 STURGEON FALLS

**Applicant(s)**

The assignor(s) hereby assigns their interest in the rents of the above described land. The notice is based on or affects a valid and existing estate, right, interest or equity in land.

**Name** 2743732 ONTARIO INC.  
**Address for Service** 298 Lennox Avenue, Richmond Hill,  
 Ontario L4C 2A7

I, Sergei Homiakov, President, have the authority to bind the corporation.  
 This document is not authorized under Power of Attorney by this party.

**Party To(s)****Capacity****Share**

**Name** THE TORONTO-DOMINION BANK  
**Address for Service** Branch #1060, 10909 Yonge Street NR, Elgin Mills,  
 Richmond Hill, Ontario L4C 3E3

**Statements**

The applicant applies for the entry of a notice of general assignment of rents.

This notice may be deleted by the Land Registrar when the registered instrument, BS204267 registered on 2021/09/14 to which this notice relates is deleted

Schedule: See Schedules

**Signed By**

Adriana Maria Greco 50 West Pearce St, Suite 10 acting for Signed 2021 09 14  
 Richmond Hill Applicant(s)  
 L4B 1C5

Tel 905-763-3770

Fax 905-763-3772

I have the authority to sign and register the document on behalf of all parties to the document.

Adriana Maria Greco 50 West Pearce St, Suite 10 acting for Signed 2021 09 14  
 Richmond Hill Party To(s)  
 L4B 1C5

Tel 905-763-3770

Fax 905-763-3772

I have the authority to sign and register the document on behalf of all parties to the document.

**Submitted By**

FIJ LAW LLP 50 West Pearce St, Suite 10 2021 09 14  
 Richmond Hill  
 L4B 1C5

Tel 905-763-3770

Fax 905-763-3772

**Fees/Taxes/Payment**

**Statutory Registration Fee** \$65.30  
**Total Paid** \$65.30



This agreement and assignment is made as of the 14th day of September, 2021

BETWEEN:

2743732 ONTARIO INC.

a corporation incorporated under the laws of Ontario, (hereinafter called the "Assignor") of the first part,

- and -

The Toronto-Dominion Bank, a Canadian chartered Bank (hereinafter called the "Assignee") of the second part,

Whereas the Assignor is the owner of the Lands subject to the Mortgage;

And Whereas in order to secure payment of the Obligations, the Assignor has agreed to assign the Leases and Rents to the Assignee as provided herein;

Now therefore this agreement and assignment witnesses that in consideration of the premises and the covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties, the parties hereto agree as follows:

### 1. Interpretation

In this agreement and assignment, unless there is something in the subject matter or context inconsistent therewith,

- (a) "Lands" means the lands and premises described in Schedule A attached to this agreement and assignment.
- (b) "Leases" means:
  - (i) every existing and future lease or sublease of, and agreement to lease or sublease, the whole or any portion of the Assignor's interest in the Lands;
  - (ii) every existing and future tenancy, agreement as to use or occupation and licence in respect of the whole or any portion of the Lands, whether or not pursuant to any written lease, agreement or licence;
  - (iii) every existing and future indemnity or guarantee of all or any of the obligations of any existing or future Tenant of the whole or any portion of the Lands; and
  - (iv) every existing and future assignment and agreement to assume the obligations of Tenants of the whole or any portion of the Lands;
- (c) "Mortgage" means a registered charge/mortgage of the Lands, in the amount of Three Million Thirty Five Thousand Dollars (\$3,035,000.00) from the Assignor to the Assignee, which was signed, or for which an Acknowledgement and Direction was signed, on September 10, 2021 and any amendments or modifications thereto and any mortgage or mortgages made or take in substitution thereof.
- (d) "Obligations" means the indebtedness and liability of the Assignor to the Assignee that is secured by the Mortgage.
- (e) "Rents" means all rents and other monies now due and payable or hereafter to become due and payable and the benefit of all covenants of Tenants, indemnitors and guarantors, under or in respect of the Leases.
- (f) "Tenant" means any lessee, sublessee, licensee or grantee of a right of use or occupation under a Lease and that person's successors and permitted assigns.

### 2. Assignment

As continuing collateral security for payment of the Obligations, the Assignor hereby assigns to the Assignee and creates a security interest in all of the Assignor's right, title, benefit and interest in and to the following:

- (a) the Leases and all benefits, powers, options and advantages of the Assignor to be derived therefrom and all covenants, obligations, undertakings and agreements of Tenants, thereunder; and
- (b) the Rents, with full power and authority to demand, collect, sue for, recover, receive and give receipts for the Rents and to enforce payment of the Rents and performance of the obligations of the Tenants, indemnitors and guarantors under the Leases in the name of the Assignor or the owner from time to time of the Lands.

### 3. Representations and Covenants of the Assignor

The Assignor hereby represents to, and covenants and agrees with, the Assignee that:

- (a) none of the Rents has been or will be paid more than one month in advance (except, if so provided in the Lease, for payment of rent for the last month of the term);
- (b) there has been no default of a material nature under any of the existing Leases which has not been remedied by any of the parties thereto;
- (c) it will observe and perform all of its obligations under each of the Leases and will not do or permit to be done anything that could reasonably be expected to adversely affect the enforceability of any Lease;
- (d) it will not surrender or materially modify, alter or amend any Lease or consent to an assignment of the Tenant's interest under any Lease without first obtaining the consent in writing of the Assignee;
- (e) it will not at any time assign, grant a security interest in or otherwise encumber its interest under any Lease or the Rents due or to become due thereunder, or any part thereof, other than to the Assignee; and
- (f) it will not lease or agree to lease any of the Lands except at a rent and on terms and conditions which a prudent landlord would expect to receive for such premises, and except to Tenants to whom a prudent landlord would rent the particular premises.

#### 4. Dealing with Rents by the Assignor

Subject to paragraph 3(a) above, the Assignor shall be permitted to collect and receive the Rents as and when they shall become due and payable according to the terms of the particular Lease unless and until the Assignor is in default in payment of any of the Obligations or in observing or performing any covenant, obligation or condition under this agreement and assignment or any other agreement collateral hereto. After the occurrence and during the continuation of a default, the Assignee may deliver a written notice to any Tenant under any of the Leases directing it to pay the Rents payable under its Lease to the Assignee, and such notice shall be good and sufficient authority for the Tenant in so doing.

#### 5. Rights and Duties of the Assignee

Nothing contained herein or in any statute shall have the effect of making the Assignee, its successors or assigns, responsible for the collection of any Rents or for the observance or performance of any covenant, obligation or condition under any of the Leases to be observed or performed by the Assignor, and the Assignee shall not, by virtue of this agreement and assignment or its receipt of any Rents, become or be deemed a mortgagee in possession of the Lands, and the Assignee shall not be under any obligation to take any action or exercise any remedy for the collection or recovery of any Rents or to enforce the performance of the obligations of any person under or in respect of any of the Leases; and the Assignee shall be liable to account only for such Rents as it shall actually receive, less all costs and expenses incurred by the Assignee in the collection thereof.

#### 6. Further Assurances

The Assignor hereby agrees to execute such further documents and instruments and to do all such further acts and things as may be reasonably required by the Assignee from time to time to perfect and to carry out the purpose and intent of this agreement and assignment.

#### 7. Additional Continuing Security

This agreement and assignment is being taken as additional collateral security for payment of the Obligations, and none of the rights or remedies of the Assignee under the Mortgage or any other security held by the Assignee shall be delayed or in any way prejudiced by the entering into of this agreement and assignment; and following delivery by the Assignee to the Assignor of a discharge of the Mortgage this agreement and assignment shall be of no further force or effect.

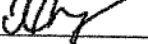
#### 8. Indemnity

The Assignor shall reimburse, indemnify and hold harmless the Assignee for and from any and all expenses, losses, damages and liabilities which the Assignee may reasonably incur by reason of this agreement and assignment and the exercise by or on behalf of the Assignee of any rights under this agreement and assignment.

#### 9. Benefit of this Agreement

This agreement and assignment shall enure to the benefit of the successors and assigns of the Assignee and Assignor. This agreement and assignment has been executed by the Assignor by its duly authorized officers as of the date first above written.

2743732 ONTARIO INC.

Per: 

Name: Sergei Homiakov Office: President

I have authority to bind the Corporation

Per: \_\_\_\_\_

Name: \_\_\_\_\_ Office: \_\_\_\_\_

**Schedule A**  
**Legal Description of Lands**

PT LT 3 CON 1 SPRINGER PT 4 - 6 36R6873 SRO & PT 4 - 6 36R7620; WEST NIPISSING ; DISTRICT OF  
NIPISSING (PIN #49080-0692 (LT))

This is Exhibit "G" of  
the Affidavit of Amanda Bezner  
Sworn before me this 27<sup>th</sup> day of April, 2023

DocuSigned by:

*Matilda Lici*

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---

A Commissioner, etc.

RUN NUMBER : 081  
RUN DATE : 2023/03/22  
ID : 20230322162801.98

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 1  
( 5821)

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE CENTRAL OFFICE  
OF THE PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM IN RESPECT OF THE FOLLOWING:

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : 2743732 ONTARIO INC.  
FILE CURRENCY : 21MAR 2023

ENQUIRY NUMBER 20230322162801.98 CONTAINS 6 PAGE(S), 4 FAMILY(IES).

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS WHICH SET OUT A BUSINESS DEBTOR NAME  
WHICH IS SIMILAR TO THE NAME IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE OTHER  
SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

AIRD & BERLIS LLP  
ATTN: JENAYA MCLEAN  
HOLD FOR PICKUP  
TORONTO ON M5J2T9

CONTINUED... 2



(crj6 05/2022)





RUN NUMBER : 081  
RUN DATE : 2023/03/22  
ID : 20230322162801.98

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 2  
( 5822)

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : 2743732 ONTARIO INC.  
FILE CURRENCY : 21MAR 2023

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

FILE NUMBER  
776327922

00  
01 CAUTION PILING PAGE NO. TOTAL OF PAGES MOTOR VEHICLE SCHEDULE REGISTRATION NUMBER REGISTERED UNDER PERIOD  
001 1 20210913 1438 1590 4829 P PPSA 5

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
03 NAME BUSINESS NAME 2743732 ONTARIO INC.  
04 ADDRESS 298 LENNOX AVENUE RICHMOND HILL ON L4C 2A7 ONTARIO CORPORATION NO. 002743732

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
06 NAME BUSINESS NAME  
07 ADDRESS 298 LENNOX AVENUE RICHMOND HILL ON L4C 2A7 ONTARIO CORPORATION NO.

08 SECURED PARTY / LIEN CLAIMANT THE TORONTO-DOMINION BANK (BRANCH #1060)  
09 ADDRESS 10909 YONGE STREET NR, ELGIN MILLS RICHMOND HILL ON L4C 3E3

10 COLLATERAL CLASSIFICATION  
CONSUMER GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER MOTOR VEHICLE INCLUDED AMOUNT DATE OF MATURITY OR NO FIXED MATURITY DATE  
X X X

11 MOTOR YEAR MAKE MODEL V.I.N.  
12 VEHICLE

13 GENERAL  
14 COLLATERAL  
15 DESCRIPTION

16 REGISTERING AGENT FIJLAW LLP  
17 ADDRESS 10-50 WEST PEARCE STREET RICHMOND HILL ON L4B 1C5

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

CONTINUED... 3

CERTIFIED BY/CERTIFIÉES PAR  
*V. Quintanilla W.*  
REGISTRAR OF  
PERSONAL PROPERTY SECURITY/  
LE REGISTRATEUR  
DES SÛRETÉS MOBILIÈRES

(crj1fv 05/2022)



RUN NUMBER : 081  
RUN DATE : 2023/03/22  
ID : 20230322162801.98

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 3  
( 5823)

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : 2743732 ONTARIO INC.  
FILE CURRENCY : 21MAR 2023

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER  
776327985

CAUTION FILING	PAGE NO. OF	TOTAL PAGES	MOTOR VEHICLE SCHEDULE	REGISTRATION NUMBER	REGISTERED UNDER	REGISTRATION PERIOD
01	001	1		20210913 1439 1590 4830	P PPSA	5

DEBTOR NAME	DATE OF BIRTH	FIRST GIVEN NAME	INITIAL	SURNAME
-------------	---------------	------------------	---------	---------

02 DEBTOR NAME  
03 BUSINESS NAME 2743732 ONTARIO INC.

04 ADDRESS 298 LENNOX AVENUE RICHMOND HILL ONTARIO CORPORATION NO. 002743732 ON L4C 2A7

DEBTOR NAME	DATE OF BIRTH	FIRST GIVEN NAME	INITIAL	SURNAME
-------------	---------------	------------------	---------	---------

05 DEBTOR NAME  
06 BUSINESS NAME

07 ADDRESS

08 SECURED PARTY / LIEN CLAIMANT THE TORONTO-DOMINION BANK (BRANCH #1060)

09 ADDRESS 10909 YONGE STREET NR, ELGIN MILLS RICHMOND HILL ON L4C 3E3

COLLATERAL CLASSIFICATION		MOTOR VEHICLE		AMOUNT	DATE OF	NO FIXED	
CONSUMER	GOODS	INVENTORY	EQUIPMENT	ACCOUNTS	OTHER	MATURITY OR	MATURITY DATE
			X	X			X

MOTOR VEHICLE	YEAR	MAKE	MODEL	V.I.N.
---------------	------	------	-------	--------

11 MOTOR VEHICLE

13 GENERAL COLLATERAL DESCRIPTION

16 REGISTERING AGENT FIJLAW LLP

17 ADDRESS 10-50 WEST PEARCE STREET RICHMOND HILL ON L4B 1C5

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

CONTINUED... 4

CERTIFIED BY/CERTIFIÉES PAR  
*V. Quintanilla W.*  
REGISTRAR OF PERSONAL PROPERTY SECURITY /  
LE REGISTRATEUR DES SÛRETÉS MOBILIÈRES

(crj1fv 05/2022)



RUN NUMBER : 081  
RUN DATE : 2023/03/22  
ID : 20230322162801.98

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 4  
( 5824)

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : 2743732 ONTARIO INC.  
FILE CURRENCY : 21MAR 2023

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER  
776328021

CAUTION FILING	PAGE NO. OF	TOTAL PAGES	MOTOR VEHICLE SCHEDULE	REGISTRATION NUMBER	REGISTERED UNDER	REGISTRATION PERIOD
	001	1		20210913 1439 1590 4831	P PPSA	5

02 DEBTOR NAME DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

03 NAME BUSINESS NAME 2743732 ONTARIO INC.

04 ADDRESS 298 LENNOX AVENUE RICHMOND HILL ONTARIO CORPORATION NO. 002743732 ON L4C 2A7

05 DEBTOR NAME DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

06 NAME BUSINESS NAME

07 ADDRESS

08 SECURED PARTY / LIEN CLAIMANT THE TORONTO-DOMINION BANK (BRANCH #1060)

09 ADDRESS 10909 YONGE STREET NR, ELGIN MILLS RICHMOND HILL ON L4C 3E3

COLLATERAL CLASSIFICATION		MOTOR VEHICLE		AMOUNT	DATE OF	NO FIXED
CONSUMER	GOODS	INVENTORY	EQUIPMENT	ACCOUNTS OTHER	INCLUDED	MATURITY OR MATURITY DATE
					X	X

11 MOTOR VEHICLE YEAR MAKE MODEL V.I.N.

12 VEHICLE

13 GENERAL ASSIGNMENT OF TERM DEPOSIT AND CREDIT BALANCES

14 COLLATERAL DESCRIPTION

15 REGISTERING AGENT FIJLAW LLP

16 ADDRESS 10-50 WEST PEARCE STREET RICHMOND HILL ON L4B 1C5

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

CONTINUED... 5

CERTIFIED BY/CERTIFIÉES PAR  
*V. Quintanilla W.*  
REGISTRAR OF PERSONAL PROPERTY SECURITY/  
LE REGISTRATEUR DES SÛRETÉS MOBILIÈRES

(oj1fv 05/2022)



RUN NUMBER : 081  
RUN DATE : 2023/03/22  
ID : 20230322162801.98

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 5  
( 5825)

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : 2743732 ONTARIO INC.  
FILE CURRENCY : 21MAR 2023

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

FILE NUMBER  
776328039

00  
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001 1 20210913 1440 1590 4832 P PPSA 5

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
03 NAME BUSINESS NAME 2743732 ONTARIO INC.

04 ADDRESS 298 LENNOX AVENUE RICHMOND HILL ONTARIO CORPORATION NO. 002743732  
ON L4C 2A7

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
06 NAME BUSINESS NAME

07 ADDRESS ONTARIO CORPORATION NO.

08 SECURED PARTY / THE TORONTO-DOMINION BANK (BRANCH #1060)  
09 LIEN CLAIMANT ADDRESS 10909 YONGE STREET NR, ELGIN MILLS RICHMOND HILL ON L4C 3E3

10 COLLATERAL CLASSIFICATION CONSUMER MOTOR VEHICLE AMOUNT DATE OF NO FIXED  
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED MATURITY OR MATURITY DATE  
X X X X X X

11 MOTOR YEAR MAKE MODEL V.I.N.  
12 VEHICLE

13 GENERAL  
14 COLLATERAL  
15 DESCRIPTION

16 REGISTERING FIJLAW LLP  
17 AGENT ADDRESS 10-50 WEST PEARCE STREET RICHMOND HILL ON L4B 1C5

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

CONTINUED... 6

CERTIFIED BY/CERTIFIÉES PAR  
*V. Quintanilla W.*  
REGISTRAR OF  
PERSONAL PROPERTY SECURITY/  
LE REGISTRATEUR  
DES SÛRETÉS MOBILIÈRES

(crj1fv 05/2022)



RUN NUMBER : 081  
RUN DATE : 2023/03/22  
ID : 20230322162801.98

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 6  
( 5826)

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : 2743732 ONTARIO INC.  
FILE CURRENCY : 21MAR 2023

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

FILE NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER
776327922	20210913 1438 1590 4829			
776327985	20210913 1439 1590 4830			
776328021	20210913 1439 1590 4831			
776328039	20210913 1440 1590 4832			

4 REGISTRATION(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.

CERTIFIED BY/CERTIFIÉES PAR  
*V. Quintanilla W.*  
REGISTRAR OF  
PERSONAL PROPERTY SECURITY/  
LE REGISTRATEUR  
DES SÛRETÉS MOBILIÈRES

(rffg 05/2022)

This is Exhibit "H" of  
the Affidavit of Amanda Bezner  
Sworn before me this 27<sup>th</sup> day of April, 2023

DocuSigned by:

*Matilda Lici*

7CE576F4AA3D4CA...

---

A Commissioner, etc.



This **Guarantee** is made as of the 10th day of September, 2021.

Whereas the undersigned (each hereinafter referred to as the "Guarantor") has agreed to provide The Toronto-Dominion Bank (hereinafter referred to as the "Bank") with a guarantee of the Obligations (as hereinafter defined) of 2743732 ONTARIO INC. (the "Customer");

And whereas the Guarantor has agreed that if the guarantee herein is not enforceable, the Guarantor will indemnify the Bank or be liable as primary obligor.

**NOW THEREFORE**, in consideration of the Bank dealing with the Customer now or in the future and/or for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Guarantor agrees with the Bank as follows:

**1. Obligations Guaranteed**

The Guarantor unconditionally and irrevocably guarantees payment of all debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, wheresoever and howsoever incurred of the Customer to the Bank, whether arising from dealings between the Bank and the Customer or from other dealings or proceedings by which the Bank may be or become in any manner whatsoever a creditor of the Customer, in any currency, whether incurred by the Customer alone or jointly with another or others and whether as a indemnitor or surety, including interest thereon and all amounts owed by the Customer for fees, costs and expenses (collectively referred to as the "Obligations").

**2. Extent of Guarantor's Liability**

This is an unlimited Guarantee and the Guarantor's liability to the Bank under this Guarantee shall not be limited as to amount.

**3. Indemnity/Primary Obligation**

If (i) any Obligations are not duly paid by the Customer and are not recoverable under Section 1 for any reason, the Guarantor will, as a separate and distinct obligation, indemnify and save harmless the Bank from and against all losses resulting from the failure of the Customer to pay such Obligations, and (ii) any Obligations are not duly paid by the Customer and are not recoverable under Section 1 or the Bank is not indemnified under clause (i) above of this Section 3, for any reason, such Obligations will, as a separate and distinct obligation, be paid by and recoverable from the Guarantor as primary obligor.

The liabilities of the Guarantor under Section 1 and each of clauses (i) and (ii) of this Section 3 are separate and distinct from each other, but the provisions of this Agreement shall apply to each of such liabilities unless the context otherwise requires.

**4. Nature of Guarantor's Liability**

The liability of the Guarantor under this Guarantee is continuing, absolute and unconditional and will not be affected by any act, omission, event or circumstance that might constitute a legal or equitable defence (any and all such legal and equitable defences are hereby expressly waived by the Guarantor) to or a discharge, limitation or reduction of the liability of the Guarantor hereunder, other than as a result of the indefeasible payment in full of the Obligations, including:

- (a) the unenforceability of any of the Obligations for any reason, including as a result of the act of any governmental authority;

- (b) any irregularity, fraud, illegality, defect or lack of authority or formality in incurring the Obligations, notwithstanding any inquiry that may or may not have been made by the Bank;
- (c) failure of the Bank to comply with or perform any agreements relating to the Obligations;
- (d) any discontinuance, renewal, extension, increase or reduction in the amount, or any other variance of any loans or credits now or hereafter made available to the Customer by the Bank or guaranteed by the Customer to the Bank or any other change to any of the terms or conditions of any of the Obligations (including, without limitation, respecting rates of interest, fees or charges, maturity dates), or any waiver by the Bank respecting any of the Obligations;
- (e) the taking of or the failure by the Bank to take a guarantee from any other person;
- (f) any release, compromise, settlement or any other dealing with any person, including any other Guarantor;
- (g) the reorganization of the Customer or its business (whether by amalgamation, merger, transfer, sale or otherwise); and in the case of an amalgamation or merger, the liability of the Guarantor shall apply to the Obligations of the resulting or continuing entity and the term "Customer" shall include such resulting or continuing entity;
- (h) the current financial condition of the Customer and any change in the Customer's financial condition;
- (i) any change in control or ownership of the Customer, or if the Customer is a general or limited partnership, any change in the membership of that partnership or other entity;
- (j) any change in the name, articles or other constating documents of the Customer, or its objects, business or capital structure;
- (k) the bankruptcy, winding-up, dissolution, liquidation or insolvency of the Customer or any proceedings being taken by or against the Customer with respect thereto, and any stay of or moratorium on proceedings by the Bank against the Customer as a result thereof;
- (l) a breach of any duty of the Bank (whether fiduciary or in negligence or otherwise) and whether owed to the Guarantor, the Customer or any other person;
- (m) any lack or limitation of power, capacity or legal status of the Customer, or, if the Customer is an individual, the death of the Customer;
- (n) the Customer's account being closed or the Bank ceasing to deal with the Customer;
- (o) any taking or failure to take any security by the Bank, any loss of or diminution in value of any security, the invalidity, unenforceability, subordination, postponement, release, discharge or substitution, in whole or in part, of any security, or the failure to perfect or maintain perfection or enforce any security; or
- (p) any failure or delay by the Bank in exercising any right or remedy respecting the Obligations or under any security or guarantee.

#### 5. Continuing Guarantee

The obligations of the Guarantor hereunder will constitute and be continuing obligations and will apply to and secure any ultimate balance due or remaining due to the Bank and will not be considered as wholly or partially satisfied by the payment or liquidation at any time of any sum of money for the time being due or remaining unpaid to the Bank. This Guarantee will continue to be effective even if at any time any payment of any of the Obligations is rendered unenforceable or is rescinded or must otherwise be returned by the Bank as a result of the occurrence of any action or event, including the insolvency, bankruptcy or reorganization of the Customer or the Guarantor, all as though such payment had not been made.

#### 6. Demand for Payment

The Guarantor shall make payment to the Bank under this Guarantee immediately upon receipt of a written demand for payment from the Bank. If any Obligation is not paid by the Customer when due, the Bank may treat all Obligations as due and payable by the Customer and may demand immediate payment under this Guarantee of all or some of the Obligations whether such other Obligations would otherwise be due and payable by the Customer at such time or whether or not any demands, steps or proceedings have been made or taken by the Bank against the Customer or any other person respecting all or any of the Obligations. If any stay of or moratorium on proceedings by the Bank against the Customer is imposed in respect of any Obligation, the Bank may nevertheless demand immediate payment of such Obligation from the Guarantor as if such Obligation was due and payable by the Customer.



**7. Interest**

If the Guarantor does not make immediate payment in full of the Obligations when demand for payment has been made by the Bank, the Guarantor shall pay interest on any unpaid amount to the Bank at the highest rate of interest per annum that is charged on any Obligations for which payment has been demanded hereunder and which remain unpaid.

**8. State of Account**

The records of the Bank in respect of the Obligations will be prima facie evidence of the balance of the amount of the Obligations that are due and payable by the Customer to the Bank.

**9. Application of Moneys Received**

The Bank may, without notice and demand of any kind and at any time, apply any money received from the Guarantor, the Customer or any other person (including arising from any security that the Bank may from time to time hold) or any balance in any account of the Guarantor held at the Bank or any of the Bank's affiliates, to such part of the Obligations, whether due or to become due, as the Bank in its sole and absolute discretion considers appropriate, or may, in its sole and absolute discretion, refrain from applying any such money. The Bank may also revoke and alter any such application in whole or in part. If any amount that is to be applied is in a currency other than the currency of the Obligation to which such amount is to be applied, then the amount that is applied shall be converted from one currency to another using the rate of exchange for the conversion of such currency as determined by the Bank or its agents and the Bank or its agent may earn revenue on such conversion.

**10. No Set-off or Counterclaim**

The Guarantor will make all payments required to be made under this Guarantee without claiming or asserting any right of setoff or counterclaim that the Guarantor has or may have against the Customer or the Bank, all of which rights the Guarantor waives.

**11. Exhausting Recourse**

The Bank is not required to take any proceedings, exhaust its recourse against the Customer or any other Guarantor or person or under any security the Bank may from time to time hold, or take any other action, before being entitled to demand payment from the Guarantor under this Guarantee, and the Guarantor waives all benefits of discussion and division.

**12. No Representations**

There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties except as expressly set forth herein. The Bank will not be bound by any representations or promises made by Customer to the Guarantor and possession of this Guarantee by the Bank will be conclusive evidence against the Guarantor that this Guarantee was not delivered in escrow or pursuant to any agreement that it should not be effective until any condition precedent or subsequent has been complied with, and this Guarantee will be binding on each Guarantor who has signed this Guarantee notwithstanding the non-execution thereof by any proposed guarantor.

**13. Postponement and Assignment**

The Guarantor hereby postpones payment of all present and future debts and liabilities of the Customer to the Guarantor, and as security for payment of the Obligations, the Guarantor hereby assigns such debts and liabilities to the Bank and agrees that all moneys received from the Customer by or on behalf of the Guarantor shall be held in trust for the Bank and forthwith upon receipt paid over to the Bank, all without prejudice to and without in any way limiting or lessening the liability of the Guarantor to the Bank under this Guarantee. This assignment and postponement is independent of the guarantee, indemnity and primary obligor obligations contained in this Guarantee and will remain in full force and effect until, in the case of the assignment, the liability of the Guarantor under this Guarantee has been discharged or terminated and, in the case of the postponement, until all Obligations are performed and indefeasibly paid in full.

**14. Subrogation**

The Guarantor will not be entitled to be subrogated to the rights of the Bank against the Customer, to be indemnified by the Customer or to claim contribution from any other Guarantor until the Guarantor makes indefeasible payment to the Bank of all amounts owing by the Guarantor to the Bank under this Guarantee and the Obligations are indefeasibly paid in full.

**15. Bankruptcy of Customer**

Upon the bankruptcy or winding up or other distribution of assets of the Customer or of any surety or Guarantor for the Obligations, the Bank's rights shall not be affected by the Bank's failure to prove its claim and the Bank may prove such claim if and in any manner as it deems appropriate in its sole discretion. The Bank may value as it sees fit or refrain from valuing any security held by the Bank without in any way releasing, reducing or otherwise affecting the liability of the Guarantor to the Bank, and until all the Obligations of the Customer to the Bank have been indefeasibly paid in full, the Bank shall have the right to include in its claim the amount of all sums paid by the Guarantor to the Bank under this Guarantee and to prove and rank for and receive dividends in respect of such claim, any and all right to prove and rank for such sums paid by the Guarantor and to receive the full amount of all dividends in respect thereto being hereby assigned and transferred to the Bank.

**16. Costs and Expenses**

The Guarantor agrees to pay all costs and expenses, including legal fees, of enforcing this Guarantee including the charges and expenses of the Bank's in-house lawyers. The Guarantor will pay all legal fees on a solicitor and own client basis.

**17. Other Guarantees and Security**

The liability of the Guarantor under any other guarantee or guarantees given to the Bank in connection with the Obligations shall not be affected by this Guarantee, nor shall this Guarantee affect or be affected by the endorsement by the Guarantor of any note or notes of the Customer, the intention being that the liability of the Guarantor under such other guarantee or guarantees and this Guarantee, and under such other note or notes and this Guarantee, shall be cumulative. Nor shall the Bank be required to marshal in favour of the Guarantor other guarantees granted by other persons or any security, money or other property that the Bank may be entitled to receive or may have a claim upon.

**18. Amendment and Waivers**

No amendment to this Guarantee will be valid or binding unless set forth in writing and duly executed by the Guarantor and the Bank. No waiver by the Bank of any breach of any provision of this Guarantee will be effective or binding unless made in writing and signed by the Bank and, unless otherwise provided in the written waiver, will be limited to the specific breach waived. No delay in the exercise of any right or remedy by the Bank shall operate as a waiver thereof. No failure to exercise a right or remedy or partial exercise of a right or remedy by the Bank shall preclude other or further exercise thereof or the exercise of any other right or remedy by the Bank.

**19. Discharge**

The Guarantor will not be released or discharged from its obligations hereunder except by a written release or discharge signed by the Bank.

**20. General**

This Guarantee shall be binding on the successors of the Guarantor or, if the Guarantor is an individual, the heirs, executors, administrators and other legal representatives of the Guarantor, and shall enure to the benefit of the successors and assigns of the Bank.

If more than one Guarantor has signed this Guarantee, each Guarantor shall be jointly and severally liable under this Guarantee.

To the extent that any limitation period applies to any claim for payment hereunder of the Obligations or remedy for the enforcement of such payment, the Guarantor agrees that any such limitation period is excluded or waived, but if such exclusion and waiver is not permitted by applicable law, then any limitation period is extended to the maximum length permitted by applicable law.

Any notice or demand which the Bank may wish to give under this Guarantee may be personally served on the Guarantor or sent by ordinary mail or electronic mail to the last known address of the Guarantor. Any notice that is sent by ordinary mail shall be conclusively deemed to have been received on the fifth day following the day on which it is mailed. Any notice that is sent by electronic mail shall be conclusively deemed to have been received on the day it is sent.

If any provision of this Guarantee is determined by any court of competent jurisdiction to be invalid or unenforceable in any respect, such invalidity or unenforceability will not affect the validity or enforceability of the remaining provisions of this Guarantee.

This Guarantee shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

Any word herein contained importing the singular number shall include the plural and any word importing a person shall include a corporation, partnership, firm and any other entity.

Subject to Section 17, this Guarantee constitutes the entire agreement between the Guarantor and the Bank with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the parties with respect thereto.

Each of the undersigned acknowledges receipt of a copy of this Guarantee.

[Name of Guarantor]

Per: \_\_\_\_\_  
(authorized signature)

**Personal Guarantee**

Signature of Guarantor: \_\_\_\_\_ 

Print name: Sergei Homiakov

Per: \_\_\_\_\_  
(authorized signature)

[Name of Guarantor]

**Personal Guarantee**

Signature of Guarantor: \_\_\_\_\_

Print name: \_\_\_\_\_

Per: \_\_\_\_\_  
(authorized signature)

**Personal Guarantee**

Signature of Guarantor: \_\_\_\_\_

Print name: \_\_\_\_\_

Per: \_\_\_\_\_  
(authorized signature)

[Name of Guarantor]

**Personal Guarantee**

Signature of Guarantor: \_\_\_\_\_

Print name: \_\_\_\_\_

Per: \_\_\_\_\_  
(authorized signature)

**Personal Guarantee**

Signature of Guarantor: \_\_\_\_\_

Print name: \_\_\_\_\_

Per: \_\_\_\_\_  
(authorized signature)

[Name of Guarantor]

**Personal Guarantee**

Signature of Guarantor: \_\_\_\_\_

Print name: \_\_\_\_\_

Per: \_\_\_\_\_  
(authorized signature)

**Personal Guarantee**

Signature of Guarantor: \_\_\_\_\_

Print name: \_\_\_\_\_

Per: \_\_\_\_\_  
(authorized signature)

[Name of Guarantor]

**Personal Guarantee**

Signature of Guarantor: \_\_\_\_\_

Print name: \_\_\_\_\_

Per: \_\_\_\_\_  
(authorized signature)

**Personal Guarantee**

Signature of Guarantor: \_\_\_\_\_

Print name: \_\_\_\_\_

Per: \_\_\_\_\_  
(authorized signature)

[Name of Guarantor]

Per: \_\_\_\_\_  
(authorized signature)

Per: \_\_\_\_\_  
(authorized signature)



This Guarantee is made as of the 10th day of September, 2021.

Whereas the undersigned (each hereinafter referred to as the "Guarantor") has agreed to provide The Toronto-Dominion Bank (hereinafter referred to as the "Bank") with a guarantee of the Obligations (as hereinafter defined) of 2743732 ONTARIO INC. (the "Customer");

And whereas the Guarantor has agreed that if the guarantee herein is not enforceable, the Guarantor will indemnify the Bank or be liable as primary obligor.

**NOW THEREFORE**, in consideration of the Bank dealing with the Customer now or in the future and/or for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Guarantor agrees with the Bank as follows:

**1. Obligations Guaranteed**

The Guarantor unconditionally and irrevocably guarantees payment of all debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, wheresoever and howsoever incurred of the Customer to the Bank, whether arising from dealings between the Bank and the Customer or from other dealings or proceedings by which the Bank may be or become in any manner whatsoever a creditor of the Customer, in any currency, whether incurred by the Customer alone or jointly with another or others and whether as a indemnitor or surety, including interest thereon and all amounts owed by the Customer for fees, costs and expenses (collectively referred to as the "Obligations").

**2. Extent of Guarantor's Liability**

This is an unlimited Guarantee and the Guarantor's liability to the Bank under this Guarantee shall not be limited as to amount.

**3. Indemnity/Primary Obligation**

If (i) any Obligations are not duly paid by the Customer and are not recoverable under Section 1 for any reason, the Guarantor will, as a separate and distinct obligation, indemnify and save harmless the Bank from and against all losses resulting from the failure of the Customer to pay such Obligations, and (ii) any Obligations are not duly paid by the Customer and are not recoverable under Section 1 or the Bank is not indemnified under clause (i) above of this Section 3, for any reason, such Obligations will, as a separate and distinct obligation, be paid by and recoverable from the Guarantor as primary obligor.

The liabilities of the Guarantor under Section 1 and each of clauses (i) and (ii) of this Section 3 are separate and distinct from each other, but the provisions of this Agreement shall apply to each of such liabilities unless the context otherwise requires.

**4. Nature of Guarantor's Liability**

The liability of the Guarantor under this Guarantee is continuing, absolute and unconditional and will not be affected by any act, omission, event or circumstance that might constitute a legal or equitable defence (any and all such legal and equitable defences are hereby expressly waived by the Guarantor) to or a discharge, limitation or reduction of the liability of the Guarantor hereunder, other than as a result of the indefeasible payment in full of the Obligations, including:

- (a) the unenforceability of any of the Obligations for any reason, including as a result of the act of any governmental authority;

- (b) any irregularity, fraud, illegality, defect or lack of authority or formality in incurring the Obligations, notwithstanding any inquiry that may or may not have been made by the Bank;
- (c) failure of the Bank to comply with or perform any agreements relating to the Obligations;
- (d) any discontinuance, renewal, extension, increase or reduction in the amount, or any other variance of any loans or credits now or hereafter made available to the Customer by the Bank or guaranteed by the Customer to the Bank or any other change to any of the terms or conditions of any of the Obligations (including, without limitation, respecting rates of interest, fees or charges, maturity dates), or any waiver by the Bank respecting any of the Obligations;
- (e) the taking of or the failure by the Bank to take a guarantee from any other person;
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- (h) the current financial condition of the Customer and any change in the Customer's financial condition;
- (i) any change in control or ownership of the Customer, or if the Customer is a general or limited partnership, any change in the membership of that partnership or other entity;
- (j) any change in the name, articles or other constating documents of the Customer, or its objects, business or capital structure;
- (k) the bankruptcy, winding-up, dissolution, liquidation or insolvency of the Customer or any proceedings being taken by or against the Customer with respect thereto, and any stay of or moratorium on proceedings by the Bank against the Customer as a result thereof;
- (l) a breach of any duty of the Bank (whether fiduciary or in negligence or otherwise) and whether owed to the Guarantor, the Customer or any other person;
- (m) any lack or limitation of power, capacity or legal status of the Customer, or, if the Customer is an individual, the death of the Customer;
- (n) the Customer's account being closed or the Bank ceasing to deal with the Customer;
- (o) any taking or failure to take any security by the Bank, any loss of or diminution in value of any security, the invalidity, unenforceability, subordination, postponement, release, discharge or substitution, in whole or in part, of any security, or the failure to perfect or maintain perfection or enforce any security; or
- (p) any failure or delay by the Bank in exercising any right or remedy respecting the Obligations or under any security or guarantee.

## 5. Continuing Guarantee

The obligations of the Guarantor hereunder will constitute and be continuing obligations and will apply to and secure any ultimate balance due or remaining due to the Bank and will not be considered as wholly or partially satisfied by the payment or liquidation at any time of any sum of money for the time being due or remaining unpaid to the Bank. This Guarantee will continue to be effective even if at any time any payment of any of the Obligations is rendered unenforceable or is rescinded or must otherwise be returned by the Bank as a result of the occurrence of any action or event, including the insolvency, bankruptcy or reorganization of the Customer or the Guarantor, all as though such payment had not been made.

## 6. Demand for Payment

The Guarantor shall make payment to the Bank under this Guarantee immediately upon receipt of a written demand for payment from the Bank. If any Obligation is not paid by the Customer when due, the Bank may treat all Obligations as due and payable by the Customer and may demand immediate payment under this Guarantee of all or some of the Obligations whether such other Obligations would otherwise be due and payable by the Customer at such time or whether or not any demands, steps or proceedings have been made or taken by the Bank against the Customer or any other person respecting all or any of the Obligations. If any stay of or moratorium on proceedings by the Bank against the Customer is imposed in respect of any Obligation, the Bank may nevertheless demand immediate payment of such Obligation from the Guarantor as if such Obligation was due and payable by the Customer.

**7. Interest**

If the Guarantor does not make immediate payment in full of the Obligations when demand for payment has been made by the Bank, the Guarantor shall pay interest on any unpaid amount to the Bank at the highest rate of interest per annum that is charged on any Obligations for which payment has been demanded hereunder and which remain unpaid.

**8. State of Account**

The records of the Bank in respect of the Obligations will be prima facie evidence of the balance of the amount of the Obligations that are due and payable by the Customer to the Bank.

**9. Application of Moneys Received**

The Bank may, without notice and demand of any kind and at any time, apply any money received from the Guarantor, the Customer or any other person (including arising from any security that the Bank may from time to time hold) or any balance in any account of the Guarantor held at the Bank or any of the Bank's affiliates, to such part of the Obligations, whether due or to become due, as the Bank in its sole and absolute discretion considers appropriate, or may, in its sole and absolute discretion, refrain from applying any such money. The Bank may also revoke and alter any such application in whole or in part. If any amount that is to be applied is in a currency other than the currency of the Obligation to which such amount is to be applied, then the amount that is applied shall be converted from one currency to another using the rate of exchange for the conversion of such currency as determined by the Bank or its agents and the Bank or its agent may earn revenue on such conversion.

**10. No Set-off or Counterclaim**

The Guarantor will make all payments required to be made under this Guarantee without claiming or asserting any right of setoff or counterclaim that the Guarantor has or may have against the Customer or the Bank, all of which rights the Guarantor waives.

**11. Exhausting Recourse**

The Bank is not required to take any proceedings, exhaust its recourse against the Customer or any other Guarantor or person or under any security the Bank may from time to time hold, or take any other action, before being entitled to demand payment from the Guarantor under this Guarantee, and the Guarantor waives all benefits of discussion and division.

**12. No Representations**

There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties except as expressly set forth herein. The Bank will not be bound by any representations or promises made by Customer to the Guarantor and possession of this Guarantee by the Bank will be conclusive evidence against the Guarantor that this Guarantee was not delivered in escrow or pursuant to any agreement that it should not be effective until any condition precedent or subsequent has been complied with, and this Guarantee will be binding on each Guarantor who has signed this Guarantee notwithstanding the non-execution thereof by any proposed guarantor.

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**14. Subrogation**

The Guarantor will not be entitled to be subrogated to the rights of the Bank against the Customer, to be indemnified by the Customer or to claim contribution from any other Guarantor until the Guarantor makes indefeasible payment to the Bank of all amounts owing by the Guarantor to the Bank under this Guarantee and the Obligations are indefeasibly paid in full.

**15. Bankruptcy of Customer**

Upon the bankruptcy or winding up or other distribution of assets of the Customer or of any surety or Guarantor for the Obligations, the Bank's rights shall not be affected by the Bank's failure to prove its claim and the Bank may prove such claim if and in any manner as it deems appropriate in its sole discretion. The Bank may value as it sees fit or refrain from valuing any security held by the Bank without in any way releasing, reducing or otherwise affecting the liability of the Guarantor to the Bank, and until all the Obligations of the Customer to the Bank have been indefeasibly paid in full, the Bank shall have the right to include in its claim the amount of all sums paid by the Guarantor to the Bank under this Guarantee and to prove and rank for and receive dividends in respect of such claim, any and all right to prove and rank for such sums paid by the Guarantor and to receive the full amount of all dividends in respect thereto being hereby assigned and transferred to the Bank.

**16. Costs and Expenses**

The Guarantor agrees to pay all costs and expenses, including legal fees, of enforcing this Guarantee including the charges and expenses of the Bank's in-house lawyers. The Guarantor will pay all legal fees on a solicitor and own client basis.

**17. Other Guarantees and Security**

The liability of the Guarantor under any other guarantee or guarantees given to the Bank in connection with the Obligations shall not be affected by this Guarantee, nor shall this Guarantee affect or be affected by the endorsement by the Guarantor of any note or notes of the Customer, the intention being that the liability of the Guarantor under such other guarantee or guarantees and this Guarantee, and under such other note or notes and this Guarantee, shall be cumulative. Nor shall the Bank be required to marshal in favour of the Guarantor other guarantees granted by other persons or any security, money or other property that the Bank may be entitled to receive or may have a claim upon.

**18. Amendment and Waivers**

No amendment to this Guarantee will be valid or binding unless set forth in writing and duly executed by the Guarantor and the Bank. No waiver by the Bank of any breach of any provision of this Guarantee will be effective or binding unless made in writing and signed by the Bank and, unless otherwise provided in the written waiver, will be limited to the specific breach waived. No delay in the exercise of any right or remedy by the Bank shall operate as a waiver thereof. No failure to exercise a right or remedy or partial exercise of a right or remedy by the Bank shall preclude other or further exercise thereof or the exercise of any other right or remedy by the Bank.

**19. Discharge**

The Guarantor will not be released or discharged from its obligations hereunder except by a written release or discharge signed by the Bank.

**20. General**

This Guarantee shall be binding on the successors of the Guarantor or, if the Guarantor is an individual, the heirs, executors, administrators and other legal representatives of the Guarantor, and shall enure to the benefit of the successors and assigns of the Bank.

If more than one Guarantor has signed this Guarantee, each Guarantor shall be jointly and severally liable under this Guarantee.

To the extent that any limitation period applies to any claim for payment hereunder of the Obligations or remedy for the enforcement of such payment, the Guarantor agrees that any such limitation period is excluded or waived, but if such exclusion and waiver is not permitted by applicable law, then any limitation period is extended to the maximum length permitted by applicable law.

Any notice or demand which the Bank may wish to give under this Guarantee may be personally served on the Guarantor or sent by ordinary mail or electronic mail to the last known address of the Guarantor. Any notice that is sent by ordinary mail shall be conclusively deemed to have been received on the fifth day following the day on which it is mailed. Any notice that is sent by electronic mail shall be conclusively deemed to have been received on the day it is sent.

If any provision of this Guarantee is determined by any court of competent jurisdiction to be invalid or unenforceable in any respect, such invalidity or unenforceability will not affect the validity or enforceability of the remaining provisions of this Guarantee.

This Guarantee shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

Any word herein contained importing the singular number shall include the plural and any word importing a person shall include a corporation, partnership, firm and any other entity.

Subject to Section 17, this Guarantee constitutes the entire agreement between the Guarantor and the Bank with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the parties with respect thereto.

Each of the undersigned acknowledges receipt of a copy of this Guarantee.

[Name of Guarantor]

Per: \_\_\_\_\_  
(authorized signature)

Per: \_\_\_\_\_  
(authorized signature)

[Name of Guarantor]

Per: \_\_\_\_\_  
(authorized signature)

Per: \_\_\_\_\_  
(authorized signature)

[Name of Guarantor]

Per: \_\_\_\_\_  
(authorized signature)

Per: \_\_\_\_\_  
(authorized signature)

[Name of Guarantor]

Per: \_\_\_\_\_  
(authorized signature)

Per: \_\_\_\_\_  
(authorized signature)

[Name of Guarantor]

Per: \_\_\_\_\_  
(authorized signature)

Per: \_\_\_\_\_  
(authorized signature)

[Name of Guarantor]

Per: \_\_\_\_\_  
(authorized signature)

Per: \_\_\_\_\_  
(authorized signature)

**Personal Guarantee**

Signature of Guarantor:  \_\_\_\_\_

Print name: Irena Gorzhaltsan

**Personal Guarantee**

Signature of Guarantor: \_\_\_\_\_

Print name: \_\_\_\_\_

**Personal Guarantee**

Signature of Guarantor: \_\_\_\_\_

Print name: \_\_\_\_\_

**Personal Guarantee**

Signature of Guarantor: \_\_\_\_\_

Print name: \_\_\_\_\_

**Personal Guarantee**

Signature of Guarantor: \_\_\_\_\_

Print name: \_\_\_\_\_

**Personal Guarantee**

Signature of Guarantor: \_\_\_\_\_

Print name: \_\_\_\_\_

**Personal Guarantee**

Signature of Guarantor: \_\_\_\_\_

Print name: \_\_\_\_\_

**Personal Guarantee**

Signature of Guarantor: \_\_\_\_\_

Print name: \_\_\_\_\_



This is Exhibit "I" of  
the Affidavit of Amanda Bezner  
Sworn before me this 27<sup>th</sup> day of April, 2023

DocuSigned by:  
*Matilda Lici*  
7CE576F4AA3D4CA...

---

A Commissioner, etc.



Certificate of Independent Legal Advice

TO: THE TORONTO-DOMINION BANK ("BANK")

I have been consulted by Irena Gorzhaltzan (the "Obligor") as to the legal effect of (select the following, as applicable):

giving the Bank the guarantee/suretyship in the form attached and signed the      day of September, 2021 in support of the obligations of 2743732 Ontario Inc. (the "Borrower").

granting to the Bank the following security in the form attached (the "Security") as security for the indebtedness and liability of the Obligor to the Bank:

Guarantors' Consent re: Charge

Environmental Indemnity Agreement

Neither I nor any lawyer in my firm is acting in any way on behalf of the Borrower or the Bank in connection with this matter. I have been consulted by the Obligor and have advised the Obligor independently of the Borrower or Bank. I have explained the Obligor's position and the consequences of signing the document(s) referred to above fully and plainly before the Obligor as solicitor for the Obligor and in the Obligor's interest only and without regard to or consideration for, the interests of the Borrower or Bank. The Obligor declared that the Obligor fully understood the nature and effect of the said document(s) and acknowledged that the Obligor is executing the said document(s) freely and voluntarily and as the Obligor's own act and deed without any fear, threat, influence or compulsion of, from or by the Borrower or Bank. I confirm that I gave the foregoing advice to the Obligor prior to the delivery of the above document(s) to the Bank.

Dated at Toronto this 10th day of September, 2021  
(location) (month) (year)

[Signature]  
Signature of Solicitor  
Tory Auk 5255 Yonge St, Toronto,  
(print name and address) ON

I hereby acknowledge that all of the statements in the above Certificate are true and correct. Neither the Borrower, nor the Bank, nor any business associates of either of them, nor any other person has used any compulsion or made any threat or exercised any undue influence to induce me to take the action mentioned in the above Certificate. The above solicitor, in advising me as stated in the above Certificate, was consulted by me as my personal solicitor and in my interest only. I confirm that I received the above noted advice prior to the delivery of the above document(s) to the Bank.

[Signature]  
Irena Gorzhaltzan

This is Exhibit "J" of  
the Affidavit of Amanda Bezner  
Sworn before me this 27<sup>th</sup> day of April, 2023

DocuSigned by:  
*Martina Lici*  
7CE576F4AA3D4CA

---

A Commissioner, etc.



**TD Canada Trust**  
**Postponement and Assignment of**  
**Creditors Claim and Postponement of Security**

THIS AGREEMENT made this 10th day of September, 2021.

(day) (month) (year)

BETWEEN:

Sergei Homiakov

(hereinafter called the Creditor)

2743732 ONTARIO INC.

(hereinafter called the Company)

AND

**The Toronto-Dominion Bank**

(hereinafter called the Bank)

WHEREAS the Company is or may hereafter become indebted to the Bank.

AND WHEREAS the Creditor is now and intends to continue to be a supporter of the Company in carrying on its business and the Company is or may hereafter become indebted to the Creditor.

NOW THEREFORE in consideration of the Bank continuing to deal with the Company and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Creditor and the Company hereby agree as follows:

1. *Definitions.* In this Agreement, the following terms have the following meanings:

*"Bank Indebtedness"* means all obligations of the Company to the Bank, including all debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, wheresoever and howsoever incurred, whether incurred before, at the time of, or after the execution of this Agreement, whether the indebtedness and liability is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again, whether arising from dealings between the Bank and the Company or from other dealings or proceedings by which the Bank may be or become in any manner whatsoever a creditor of the Company, and in any currency, whether incurred by the Company alone or with another or others and whether as a principal or surety, including all interest thereon and all amounts owed by the Company under this Agreement for fees, costs and expenses.

*"Bank Security"* means all present and future security which the Bank has taken or may hereafter take in support of the Bank Indebtedness.

*"Creditor Indebtedness"* means all obligations of the Company to the Creditor, including all debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, wheresoever and howsoever incurred, whether incurred before, at the time of, or after the execution of this Agreement, whether the indebtedness and liability is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again, whether arising from dealings between the Creditor and the Company or from other dealings or proceedings by which the Creditor may be or become in any manner whatsoever a creditor of the Company, and in any currency, whether incurred by the Company alone or jointly with another or others and whether as a principal or surety, including all interest thereon.

*"Creditor Security"* means all present and future security which the Creditor has taken or may take in support of the Creditor Indebtedness.

2. *Postponement of Creditor Indebtedness.* The Creditor hereby postpones the repayment of the Creditor Indebtedness, in full, to the prior repayment of the Bank Indebtedness. The Company and the Creditor hereby agree with the Bank that:

- (a) the Company will not repay the Creditor Indebtedness;
- (b) the Creditor will not take any action to accelerate the maturity of the Creditor Indebtedness or exercise any remedies or take any action or proceeding to enforce the Creditor Indebtedness or the Creditor Security;
- (c) the Creditor will not file, or join with any other creditors of the Company in filing, any petition commencing any bankruptcy, insolvency, reorganization, arrangement or receivership proceeding or any assignment for the benefit of creditors against or in respect of the Company or any other marshalling of the assets and liabilities of the Company;

(d) the Creditor will not accept any payment, whether principal, interest or otherwise on account of the Creditor Indebtedness and no satisfaction, consideration or security will be given to or accepted by the Creditor for any Creditor Indebtedness;

in each case, unless the prior written consent of the Bank has been obtained (which consent may be granted or withheld by the Bank in its sole and absolute discretion) or until such time as the Bank Indebtedness has been indefeasibly paid in full. Any payment on, or other consideration for, the Creditor Indebtedness that is received by the Creditor in violation of this Agreement will be held by the Creditor in trust for the benefit of, and shall forthwith be paid over to, the Bank. In no event shall the payment or distribution received by the Creditor be commingled with the other assets of the Creditor.

**3. Postponement of Creditor Security.** The Creditor hereby postpones and subordinates the Creditor Security in all respects to and in favour of the Bank Security, and acknowledges that the Bank Security ranks and will continue to rank in priority to the Creditor Security in respect of all of the property and assets of the Company covered by the Bank Security. The subordinations and postponements contained herein shall apply in all events and circumstances regardless of:

- (a) the date of execution, attachment, registration, perfection or re-perfection of any of the Bank Security or Creditor Security; or
- (b) the date of any advance or advances made to the Company by the Bank or the Creditor; or
- (c) the date of default by the Company under any of the Bank Security or the Creditor Security or the dates of crystallization of any floating charges held by the Bank or the Creditor; or
- (d) any priority granted by any principle of law or any statute, including the Bank Act (Canada), or any personal property security or like statute.

Any insurance proceeds received by the Company, the Bank or the Creditor in respect of the assets of the Company charged by the Bank Security or the Creditor Security, shall be dealt with according to the preceding provisions hereof as though such insurance proceeds were paid or payable as proceeds of realization of the collateral for which they compensate, and all insurance proceeds received by the Company shall be held in trust by it for the benefit of the Bank and the Creditor, as the case may be, in accordance with the provisions hereof.

**4. Assignment.** The Creditor hereby assigns and transfers to the Bank by way of security for the Bank Indebtedness all Creditor Indebtedness.

**5. Acknowledgement and Agreement of the Company and the Creditor.** The Company hereby confirms to and agrees with the Bank and the Creditor that so long as the Company remains indebted to the Bank and the Creditor, it will stand possessed of its assets so charged for the Bank and the Creditor in accordance with their respective interests and priorities as herein set forth. The Creditor and the Company hereby confirm and agree that the terms of this Agreement will prevail over the terms of any other agreement between the Creditor and the Company regarding the Creditor Indebtedness until such time as the Bank Indebtedness has been indefeasibly paid in full.

**6. Restriction on Transfer and Amendments.** The Creditor will not, without the prior written consent of the Bank, sell, assign or otherwise transfer or dispose of, in whole or in part, voluntarily, involuntarily or by operation of law, all or any part of the Creditor Indebtedness or any interest therein to any other person or create, incur or suffer to exist any security interest, lien, charge or other encumbrance whatsoever upon all or any part of the Creditor Indebtedness in favour of any other person. In addition to the foregoing, the Creditor will not, without the prior written consent of the Bank, amend, modify, extend, accelerate, waive or otherwise change the terms of the Creditor Indebtedness or any part thereof or any Creditor Security held therefor.

**7. Acknowledgement of No Set-Off.** The Company and the Creditor acknowledge that the Creditor Indebtedness is not the subject of nor will it hereafter without the consent of the Bank be made the subject of any set-off or counter-claim by the Company.

**8. Bank Not Bound to Collect Creditor Indebtedness.** The Creditor shall duly and promptly take such action as the Bank may reasonably request in its sole discretion to collect amounts in respect of the Creditor Indebtedness and to file appropriate claims, proofs of claim or other instruments of similar character in respect of the Creditor Indebtedness until such time as the Bank Indebtedness has been indefeasibly paid in full. The Bank shall be authorized (in its own name or in the name of the Creditor), but shall have no obligation to, demand payment of the Creditor Indebtedness or any part thereof or take any proceeding to collect any Creditor Indebtedness or to enforce any Creditor Security in respect thereof.

**9. Bankruptcy of Company.** In the event of the bankruptcy or winding up of the Company or any distribution of the assets or any of the assets of the Company or proceeds thereof among its creditors in any manner whatsoever, the Bank may prove in respect of the Creditor Indebtedness as a debt owing to it by the Company and the Bank shall be entitled to collect and receive any and all payments or distributions payable in respect thereof, such payments or distributions to be applied on such part or parts of the Bank Indebtedness as the Bank shall see fit until the whole of the Bank Indebtedness has been indefeasibly paid in full and thereafter the Creditor shall be entitled to such payments or distributions.

**10. Further Assurances.** The Company and the Creditor will, from time to time forthwith and at all times after the date of this Agreement, without further consideration, do such further acts and deliver such further instruments and documents, and take such further action, as the Bank may reasonably request for the purpose of obtaining or preserving the benefits of, and the rights and powers granted, or intended to be granted, by, this Agreement.


11. *Successors and Assigns.* This Agreement shall be binding upon and shall inure to the benefit of the executors, administrators, successors and assigns of the respective parties hereto.

12. *Acknowledgement.* The Creditor acknowledges receipt of a fully executed copy of this Agreement and, to the extent permitted by applicable law, waives the right to receive a copy of any financing statement, financing change statement or verification statement in respect of any registered financing statement or financing change statement prepared, registered or issued in connection with this Agreement.


13. *Language Preference.* This Agreement has been drawn up in the English language at the request of all parties. (Cet acte a été rédigé en langue anglaise à la demande de toutes les parties.)

**SIGNED, SEALED AND DELIVERED**


Witness:

  
Creditor Name:  
Sergei Homiakov

2743732 ONTARIO INC.

  
Sergei Homiakov - President  
I have authority to bind the Corporation

THE TORONTO-DOMINION BANK

  
Name: Landon Gray, MCS  
Title:  
I have authority to bind the Bank

This is Exhibit "K" of  
the Affidavit of Amanda Bezner  
Sworn before me this 27<sup>th</sup> day of April, 2023

DocuSigned by:  
*Matilda Lici*  
7CE576F4AA3D4CA...

---

A Commissioner, etc.

March 30, 2023

**DELIVERED VIA COURIER AND EMAIL ([Arielluxury@gmail.com](mailto:Arielluxury@gmail.com))**

**2743732 Ontario Inc.**  
 298 Lennox Avenue  
 Richmond Hill, ON L4C 2A7

**Attention:** Sergei Homiakov

Dear Sir:

**Re: The Toronto-Dominion Bank (“TD” or “Lender”) loans to 2743732 Ontario Inc. (the “Debtor” or “you”, variously), and as guaranteed by each of Sergei Homiakov and Irena Gorzhaltzan (together, the “Guarantors”)**

---

We are the lawyers for TD in connection with its lending arrangements with the Debtor.

The Debtor is indebted to TD with respect to certain credit facilities (collectively, the “**Credit Facilities**”) made available by TD to the Debtor pursuant to and under the terms of a Letter of Agreement dated August 13, 2021 (as amended, replaced, restated or supplemented from time to time, the “**Credit Agreement**”).

The following amounts are owing by the Debtor to TD for principal and interest pursuant to the Credit Agreement as of March 29, 2023:

<b>Loan</b>	<b>Principal</b>	<b>Interest</b>	<b>Total</b>
Revolving Operating Loan Facility	\$28,968.74	\$175.86	\$29,144.60
Term Loan Facility	\$2,750,000.55	\$18,036.99	\$2,768,037.54
			<b>\$2,797,182.14<sup>1</sup></b>

---

<sup>1</sup> This amount does not include any accruing interest from and after March 29, 2023, or costs and expenses (including any legal and other professional fees) incurred by TD.



Certain of the Credit Facilities are repayable on demand. There has been one or more defaults under the Credit Agreement, including monetary defaults and, without limitation:

- a) the Debtor failing to pay the scheduled amounts of principal, interest and fees on the date when they become due;
- b) the Debtor failing to keep current on its priority payables, including arrears of property taxes and arrears owing by the Debtor to Canada Revenue Agency.

Accordingly, on behalf of TD, we hereby make formal demand for payment of \$2,797,182.14 together with accruing interest and any and all costs and expenses (including, without limitation, any legal and other professional fees) incurred by TD (collectively, the “**Indebtedness**”). Payment is required to be made immediately. Interest continues to accrue on the Indebtedness at the rates established by the Credit Agreement and any other agreement, as applicable.

The Indebtedness and other obligations of the Debtor in connection with the Credit Facilities under the Credit Agreement are secured by, among other things, a general security agreement dated September 10, 2021 from the Debtor, which grants to TD, among other things, a first-ranking security interest in all of the Debtor’s present and after-acquired personal property.

If payment of the Indebtedness is not received immediately, TD shall take whatever steps it considers necessary or appropriate to collect and recover the amounts owing to it, including, without limitation, the appointment of an interim receiver, receiver, or receiver and manager of the Debtor or any other proceedings that are necessary, in which case TD will also seek all costs it incurs in doing so.

On behalf of TD, we also enclose a Notice of Intention to Enforce Security delivered pursuant to subsection 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA Notice**”). TD hereby reserves its rights to initiate proceedings within the ten (10) day period set out in the BIA Notice, if circumstances warrant such proceedings.

Yours truly,

AIRD & BERLIS LLP



Kyle Plunkett  
e.c. Client  
Matilda Lici

**NOTICE OF INTENTION TO ENFORCE SECURITY**  
**(Bankruptcy and Insolvency Act, Subsection 244(1))**  
DELIVERED BY COURIER AND EMAIL

To: **2743732 Ontario Inc.**  
298 Lennox Avenue  
Richmond Hill, ON L4C 2A7  
*Insolvent company / person*

**TAKE NOTICE** that:

1. The Toronto-Dominion Bank (“**TD**”), a secured creditor, intends to enforce its security on the property, assets and undertakings of 2743732 Ontario Inc. (the “**Debtor**”), including, without limiting the generality of the foregoing, all the equipment, accounts, proceeds, books and records, inventory, leaseholds and all other personal and real property of the Debtor.
2. The security that is to be enforced (the “**Security**”) is in the form of, *inter alia*, a general security agreement dated September 10, 2021 from the Debtor, which grants to TD, among other things, a first-ranking security interest in all of the Debtor’s present and after-acquired personal property.
3. As of March 29, 2023, the total amount of indebtedness secured by the Security is **\$2,797,182.14** in principal and interest, plus accruing interest and costs of TD (including, without limitation, TD’s legal and other professional fees).
4. TD will not have the right to enforce the Security until after the expiry of the ten (10) day period after this notice is sent, unless the Debtor consents to an earlier enforcement.

**DATED** at Toronto this 30<sup>th</sup> day of March 2023.

**THE TORONTO-DOMINION BANK**  
by its lawyers, **Aird & Berlis LLP**

Per: 

\_\_\_\_\_  
Kyle Plunkett

Brookfield Place, Suite 1800  
181 Bay Street, Toronto, ON M5J 2T9  
Tel: 416-863-1500/Fax: 416-863-1515

**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.

52580911.4

**AIRD BERLIS**



Kyle Plunkett  
Direct: 416.865.3406  
E-mail: kplunkett@airdberlis.com

March 30, 2023

**DELIVERED VIA COURIER AND EMAIL ([Arielluxury@gmail.com](mailto:Arielluxury@gmail.com))**

**Sergei Homiakov**  
298 Lennox Avenue  
Richmond Hill, ON L4C 2A7

Dear Sir:

**Re: The Toronto-Dominion Bank (“TD” or “Lender”) loans to 2743732 Ontario Inc. (the “Debtor” or “you”, variously), and as guaranteed by each of Sergei Homiakov and Irena Gorzhaltzan (together, the “Guarantors”)**

---

We are the lawyers for TD in connection with its lending arrangements with the Debtor.

The Debtor is indebted to TD with respect to certain credit facilities (collectively, the “**Credit Facilities**”) made available by TD to the Debtor pursuant to and under the terms of a Letter of Agreement dated August 13, 2021 (as amended, replaced, restated or supplemented from time to time, the “**Credit Agreement**”).

In your personal capacity, you became a guarantor of the obligations of the Debtor under an unlimited guarantee dated September 10, 2021 (the “**Guarantee**”).

The following amounts are owing by the Debtor to TD for principal and interest pursuant to the Credit Agreement as of March 29, 2023:

<b>Loan</b>	<b>Principal</b>	<b>Interest</b>	<b>Total</b>
Revolving Operating Loan Facility	\$28,968.74	\$175.86	\$29,144.60
Term Loan Facility	\$2,750,000.55	\$18,036.99	\$2,768,037.54
			<b>\$2,797,182.14<sup>1</sup></b>

---

<sup>1</sup> This amount does not include any accruing interest from and after March 29, 2023, or costs and expenses (including any legal and other professional fees) incurred by TD.

Certain of the Credit Facilities are repayable on demand. There has been one or more defaults under the Credit Agreement, including monetary defaults and, without limitation:

- a) the Debtor failing to pay the scheduled amounts of principal, interest and fees on the date when they become due;
- b) the Debtor failing to keep current on its priority payables, including arrears of property taxes and arrears owing by the Debtor to Canada Revenue Agency.

Accordingly, on behalf of TD, we hereby make formal demand for payment of \$2,797,182.14 together with accruing interest and any and all costs and expenses (including, without limitation, any legal and other professional fees) incurred by TD (collectively, the "**Indebtedness**"). Payment is required to be made immediately. Interest continues to accrue on the Indebtedness at the rates established by the Credit Agreement and any other agreement, as applicable.

If payment of the Indebtedness is not received immediately, TD shall take whatever steps it considers necessary or appropriate to collect and recover the amounts owing to it, including, without limitation, the commencement of legal proceedings against you in the Ontario Superior Court of Justice, in which case TD will also seek all costs it incurs in doing so.

Yours truly,

AIRD & BERLIS LLP



Kyle Plunkett  
e.c. Client  
Matilda Lici



Kyle Plunkett  
Direct: 416.865.3406  
E-mail: kplunkett@airdberlis.com

March 30, 2023

**DELIVERED VIA COURIER AND EMAIL ([ariel.luxury@gmail.com](mailto:ariel.luxury@gmail.com))**

**Irena Gorzhaltsan/Irena Homiakov**  
298 Lennox Avenue  
Richmond Hill, ON L4C 2A7

Dear Madam:

**Re: The Toronto-Dominion Bank (“TD” or “Lender”) loans to 2743732 Ontario Inc. (the “Debtor” or “you”, variously), and as guaranteed by each of Sergei Homiakov and Irena Gorzhaltsan (together, the “Guarantors”)**

---

We are the lawyers for TD in connection with its lending arrangements with the Debtor.

The Debtor is indebted to TD with respect to certain credit facilities (collectively, the “**Credit Facilities**”) made available by TD to the Debtor pursuant to and under the terms of a Letter of Agreement dated August 13, 2021 (as amended, replaced, restated or supplemented from time to time, the “**Credit Agreement**”).

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Yours truly,

AIRD & BERLIS LLP



Kyle Plunkett  
e.c. Client  
Matilda Lici

52582840.4

**THE TORONTO-DOMINION BANK**

Applicant

- and -

**2743732 ONTARIO INC. et al.**

Respondents

Court File No. CV-23-00698068-00CL

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

**Proceedings commenced at Toronto**

---

**AFFIDAVIT OF AMANDA BEZNER**  
**(Sworn April 27, 2023)**

---

**AIRD & BERLIS LLP**

Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9

**Kyle Plunkett (LSO # 61044N)**

Tel: (416) 865-3406  
Email: [kplunkett@airdberlis.com](mailto:kplunkett@airdberlis.com)

**Matilda Lici (LSO #79621D)**

Tel: (416) 865-3428  
Email: [mlici@airdberlis.com](mailto:mlici@airdberlis.com)

Lawyers for The Toronto-Dominion Bank

# TAB 3



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

THE HONOURABLE  
JUSTICE STEELE

)  
)

TUESDAY, THE 9<sup>TH</sup>  
DAY OF MAY, 2023

B E T W E E N:

**THE TORONTO-DOMINION BANK**

Applicant

- and -

**2743732 ONTARIO INC., SERGEI HOMIAKOV and IRENA GORZHALTSAN aka  
IRENA HOMIAKOV**

Respondents

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

**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 capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of 2743732 Ontario Inc. (the “**Debtor**”), including the real property

owned by the Debtor and municipally known as 162 Front Street, Sturgeon Falls, Ontario, P2B 2H8 and legally described as PIN 49080-0692 LT, PT LT 3 CON 1 SPRINGER PT 4 - 6 36R6873 SRO & PT 4 - 6 36R7620; WEST NIPISSING ; DISTRICT OF NIPISSING (the “**Real Property**” and collectively, the “**Property**”), was heard this day virtually via videoconference.

**ON READING** the application record of the Applicant, namely, the Affidavit of Amanda Bezner sworn April 27, 2023 and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant, counsel for the proposed Receiver and no one appearing for any other party on the Service List although duly served as appears from the affidavit of service of Daisy Jin sworn April 28, 2023, 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 Applicant is hereby abridged and validated so that this application 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 Property of the Debtor, including the Real Property, and all proceeds thereof.

### **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 \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; 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;

- (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 respective 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, including, but not limited to, any illness or bodily harm resulting from a party or parties contracting COVID-19, 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 \$300,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. **THIS COURT ORDERS** that neither the Receiver’s Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule “A”** hereto (the “**Receiver’s Certificates**”) for any amount borrowed by it pursuant to this Order.

24. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver’s Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver’s Certificates.

## **SERVICE AND NOTICE**

25. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice->

[commercia/](#)) 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.

27. **THIS COURT ORDERS** that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Debtor's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

#### **GENERAL**

28. **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.

29. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

30. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada 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.

31. **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.

32. **THIS COURT ORDERS** that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant'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.

33. **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.

34. **THIS COURT ORDERS** that this Order is effective from the date it is made and is enforceable without any need for entry or filing.

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## SCHEDULE "A"

### RECEIVER CERTIFICATE

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. **THIS IS TO CERTIFY** that msi Spergel Inc., the receiver (the “**Receiver**”) of the assets, undertakings and properties of 2743732 Ontario Inc., including the real property municipally known as 162 Front Street, Sturgeon Falls, Ontario, P2B 2H8 and legally described as PIN 49080-0692 LT, PT LT 3 CON 1 SPRINGER PT 4 - 6 36R6873 SRO & PT 4 - 6 36R7620; WEST NIPISSING ; DISTRICT OF NIPISSING (the “**Real Property**”), all proceeds thereof (collectively, the “**Property**”) appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated the 9<sup>th</sup> day of May, 2023 (the “**Order**”) made in an action having Court file number \_\_\_\_\_, 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 The Toronto-Dominion Bank 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  
Court-appointed Receiver of 2743732 Ontario  
Inc., and not in its corporate or personal capacity

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

**THE TORONTO-DOMINION BANK**

- and - **2743732 ONTARIO INC. et al.**

Applicant

Respondents

Court File No. CV-23-00698068-00CL

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

**Proceedings commenced at Toronto**

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**RECEIVERSHIP ORDER**

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**AIRD & BERLIS LLP**

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Lawyers for The Toronto-Dominion Bank



# TAB 4

Revised: January 21, 2014  
s.243(1) BIA (National Receiver) and s. 101 CJA  
(Ontario) Receiver

Court File No. — CV-23-00698068-00CL

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

THE HONOURABLE ) ~~WEEKDAY~~TUESDAY, THE #9<sup>TH</sup>  
JUSTICE — STEELE ) DAY OF ~~MONTH~~MAY, ~~20YR~~2023  
)

**PLAINTIFF<sup>†</sup>**

**Plaintiff**

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

**DEFENDANT**

**Defendant**

2743732 ONTARIO INC., SERGEI HOMIAKOV and IRENA GORZHALTSAN aka  
IRENA HOMIAKOV

Respondents

<sup>†</sup>—The Model Order Subcommittee notes that a receivership proceeding may be commenced by action or by application. This model order is drafted on the basis that the receivership proceeding is commenced by way of an action.

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

**ORDER**  
**(appointing Receiver)**

~~THIS MOTION~~APPLICATION made by the Plaintiff<sup>2</sup> 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~~capacity, the "Receiver"), without security, of all of the assets, undertakings and properties of [DEBTOR'S NAME]2743732 Ontario Inc. (the "Debtor") ~~acquired for, or used in relation to a business carried on by the Debtor, including the real property owned by the Debtor and municipally known as 162 Front Street, Sturgeon Falls, Ontario, P2B 2H8 and legally described as PIN 49080-0692 LT, PT LT 3 CON 1 SPRINGER PT 4 - 6 36R6873 SRO & PT 4 - 6 36R7620; WEST NIPISSING ; DISTRICT OF NIPISSING (the "Real Property" and collectively, the "Property"),~~ was heard this day ~~at 330 University Avenue, Toronto, Ontario~~virtually via videoconference.

**ON READING** the ~~affidavit of [NAME]~~application record of the Applicant, namely, the Affidavit of Amanda Bezner sworn [DATE]April 27, 2023 and the Exhibits thereto, and on hearing the submissions of counsel for [NAMES],the Applicant, counsel for the proposed Receiver and no one appearing for [NAME]any other party on the Service List although duly served as appears from the affidavit of service of [NAME]Daisy Jin sworn [DATE]April 28, 2023, and on reading the consent of [RECEIVER'S NAME]msi Spergel Inc. to act as the Receiver,

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

## SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of ~~Motion~~Application and the ~~Motion~~Applicant is hereby abridged and validated<sup>3</sup> so that this ~~motion~~application 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~~Property of the Debtor ~~acquired for, or used in relation to a business carried on by the Debtor,~~ including the Real Property, and 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;

<sup>3</sup>~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings.<sup>4</sup> The authority hereby

~~<sup>4</sup>This model order does not include specific authority permitting the Receiver to either file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the Receiver wishes to take one of these steps.~~

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 \$~~\_\_\_\_\_~~100,000, provided that the aggregate consideration for all such transactions does not exceed \$~~\_\_\_\_\_~~500,000; 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*, ~~for~~ section 31 of the Ontario *Mortgages Act*, as the case may be,<sup>5</sup> shall not be required, ~~and in each case the Ontario Bulk Sales Act shall not apply.~~

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;

~~<sup>5</sup> If the Receiver will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the Receiver is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.~~

- (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 respective 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, including, but not limited to, any illness or bodily harm resulting from a party or parties contracting COVID-19, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

#### **RECEIVER'S ACCOUNTS**

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and

encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.<sup>6</sup>

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.

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~~<sup>6</sup>Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".~~

## 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 \$~~\_\_\_\_\_~~300,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the **“Receiver’s Borrowings Charge”**) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. **THIS COURT ORDERS** that neither the Receiver’s Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule “A”** hereto (the **“Receiver’s Certificates”**) for any amount borrowed by it pursuant to this Order.

24. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver’s Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver’s Certificates.

## SERVICE AND NOTICE

25. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the **“Protocol”**) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List

website

at

~~<http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>~~~~<http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>~~) 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.

27. **THIS COURT ORDERS** that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Debtor's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

**GENERAL**

28. ~~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.

29. ~~28.~~ **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

30. ~~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.

31. ~~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.

32. ~~31.~~ **THIS COURT ORDERS** that the PlaintiffApplicant shall have its costs of this ~~motion~~application, up to and including entry and service of this Order, provided for by the terms of the PlaintiffApplicant's security or, if not so provided by the PlaintiffApplicant'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.

33. ~~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.



34. THIS COURT ORDERS that this Order is effective from the date it is made and is enforceable without any need for entry or filing.

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**SCHEDULE "A"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. **THIS IS TO CERTIFY** that ~~[RECEIVER'S NAME]~~ msi Spergel Inc., the receiver (the "Receiver") of the assets, undertakings and properties ~~[DEBTOR'S NAME] acquired for, or used in relation to a business carried on by the Debtor, including~~ of 2743732 Ontario Inc., including the real property municipally known as 162 Front Street, Sturgeon Falls, Ontario, P2B 2H8 and legally described as PIN 49080-0692 LT, PT LT 3 CON 1 SPRINGER PT 4 - 6 36R6873 SRO & PT 4 - 6 36R7620; WEST NIPISSING ; DISTRICT OF NIPISSING (the "Real Property"), all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 9<sup>th</sup> day of May, 20—2023 (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 The Toronto-Dominion 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 Court-appointed  
Receiver of ~~the Property~~ 2743732 Ontario Inc.,  
and not in its corporate or personal capacity

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

52742779.1

49525763.1

**THE TORONTO-DOMINION BANK**

- and -

**2743732 ONTARIO INC. et al.**

Applicant

Respondents

Court File No. CV-23-00698068-00CL

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

**Proceedings commenced at Toronto**

**RECEIVERSHIP ORDER**

**AIRD & BERLIS LLP**

Barristers & Solicitors

Brookfield Place

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Toronto, Ontario M5J 2T9

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Lawyers for The Toronto-Dominion Bank

Document comparison by Workshare Compare on April 28, 2023 11:04:53 AM

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Document 2 ID	iManage://wsc.airdberlis.com/CM/52742614/2
Description	#52742614v2<wsc.airdberlis.com> - Receivership Order
Rendering set	Standard

Legend:	
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	Count
Insertions	157
Deletions	135
Moved from	0
Moved to	0
Style changes	0
Format changes	0
Total changes	292

# TAB 5

Court File No.

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

BETWEEN:

**THE TORONTO-DOMINION BANK**

Applicant

- and -

**2743732 ONTARIO INC., SERGEI HOMIAKOV and IRENA GORZHALTSAN aka  
IRENA HOMIAKOV**

Respondents

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

**CONSENT TO ACT AS COURT-APPOINTED RECEIVER**

**MSI SPERGEL INC.** hereby consents to act as the court-appointed receiver, without security, over all of the assets, undertakings, and properties of 2743732 Ontario Inc. (the “**Debtor**”), acquired for or used in relation to a business or businesses carried on by the Debtor.

Dated at Toronto, Ontario this 14<sup>th</sup> day of April, 2023.

**msi Spergel inc.**

Per:



Name: Mukul Manchanda

Title: Managing Partner

I have authority to bind the Corporation.



**THE TORONTO-DOMINION BANK**

- and - **2743732 ONTARIO INC. et al.**

Applicant

Respondents

Court File No.

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

**Proceedings commenced at Toronto**

**CONSENT TO ACT AS**  
**COURT-APPOINTED RECEIVER**

**AIRD & BERLIS LLP**

Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9

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Lawyers for The Toronto-Dominion Bank

# TAB 6

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

**B E T W E E N :**

**THE TORONTO-DOMINION BANK**

Applicant

and

**2743732 ONTARIO INC., SERGEI HOMIAKOV AND IRENA GORZHALTSAN AKA  
IRENA HOMIAKOV**

Respondents

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

**SERVICE LIST**

As of April 28, 2023	
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**THE TORONTO-DOMINION BANK**  
Applicant

- and - **2743732 ONTARIO INC. et al.**  
Respondents

Court File No. CV-23-00698068-00CL

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

**Proceedings commenced at Toronto**

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**APPLICATION RECORD OF**  
**THE TORONTO-DOMINION BANK**  
(Returnable May 9, 2023)

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