

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

2580363 ONTARIO INC. AND 2580361 ONTARIO INC.

Respondents

**MOTION RECORD
(Returnable: April 27, 2023)**

(Volume 2 of 2)

April 17, 2023

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**AND TO: HIS MAJESTY THE KING IN RIGHT
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APPENDIX "5"



Listing Agreement – Commercial Seller Representation Agreement Authority to Offer for Sale



Form 520
for use in the Province of Ontario

This is a Multiple Listing Service® Agreement


(Seller's Initials)

BETWEEN:
BROKERAGE: AVISON YOUNG COMMERCIAL REAL ESTATE SERVICES, LP

.....(the "Listing Brokerage") Tel. No. 416-955-0000
msl Spargel Inc., solely in its capacity as Court-appointed Receiver of 2580363 Ontario Inc., and 2580361 Ontario Inc., and not
SELLER: In any corporate or personal capacity.....(the "Seller")

In consideration of the Listing Brokerage listing the real property for sale known as 21 Augusta Street, City of Hamilton, Ontario
[P.I.N. # 171700010] (the "Property")

the Seller hereby gives the Listing Brokerage the **exclusive and irrevocable** right to act as the Seller's agent,
commencing at 12:01 a.m. on the 9TH day of DECEMBER, 2022

until 11:59 p.m. on the 15TH day of APRIL, 2023 (the "Listing Period").

{ Seller acknowledges that the length of the Listing Period is negotiable between the Seller and the Listing Brokerage and, if an MLS® listing, may be subject to minimum requirements of the real estate board, however, in accordance with the Real Estate and Business Brokers Act, 2002, (REBBA), if the Listing Period exceeds six months, the Listing Brokerage must obtain the Seller's initials. }


(Seller's Initials)

to offer the Property for sale at a price of:
One Million Nine Hundred and Ninety-Five Thousand Dollars (\$CDN) 1,995,000.00
and upon the terms particularly set out herein, or at such other price and/or terms acceptable to the Seller. It is understood that the price and/or terms set out herein are at the Seller's personal request, after full discussion with the Listing Brokerage's representative regarding potential market value of the Property.

The Seller hereby represents and warrants that the Seller is not a party to any other listing agreement for the Property or agreement to pay commission to any other real estate brokerage for the sale of the property.



(Seller's Initials)

1. DEFINITIONS AND INTERPRETATIONS: For the purposes of this Agreement ("Authority" or "Agreement"):
"Seller" includes vendor and a "buyer" includes a purchaser or a prospective purchaser. A purchase shall be deemed to include the entering into of any agreement to exchange, or the obtaining of an option to purchase which is subsequently exercised, or the causing of a First Right of Refusal to be exercised, or an agreement to sell or transfer shares or assets. "Real property" includes real estate as defined in the Real Estate and Business Brokers Act (2002). The "Property" shall be deemed to include any part thereof or interest therein. A "real estate board" includes a real estate association. Commission shall be deemed to include other remuneration. This Agreement shall be read with all changes of gender or number required by the context. For purposes of this Agreement, anyone introduced to or shown the Property shall be deemed to include any spouse, heirs, executors, administrators, successors, assigns, related corporations and affiliated corporations. Related corporations or affiliated corporations shall include any corporation where one half or a majority of the shareholders, directors or officers of the related or affiliated corporation are the same person(s) as the shareholders, directors, or officers of the corporation introduced to or shown the Property.

2. COMMISSION: In consideration of the Listing Brokerage listing the Property for sale, the Seller agrees to pay the Listing Brokerage a commission of 4.0 % of the sale price of the Property or

for any valid offer to purchase the Property from any source whatsoever obtained during the Listing Period.....
such other terms and conditions as the Seller may accept, AND THAT IS COMPLETED.

INITIALS OF LISTING BROKERAGE: 

INITIALS OF SELLER(S): 



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The Seller authorizes the Listing Brokerage to co-operate with any other registered real estate brokerage (co-operating brokerage), and to offer to pay the co-operating brokerage a commission of 1.75% % of the sale price of the Property or

..... out of the commission the Seller pays the Listing Brokerage. The Seller further agrees to pay such commission as calculated above if an agreement to purchase is agreed to or accepted by the Seller or anyone on

the Seller's behalf within 120 days after the expiration of the Listing Period (**Holdover Period**), so long as such agreement is with anyone who was introduced to the Property from any source whatsoever during the Listing Period or shown the Property during the Listing Period. If, however, the offer for the purchase of the Property is pursuant to a new agreement in writing to pay commission to another registered real estate brokerage, the Seller's liability for commission shall be reduced by the amount paid by the Seller under the new agreement. (See Schedule "A")

INTENTIONALLY DELETED.

INTENTIONALLY DELETED.

INTENTIONALLY DELETED.

All amounts set out as commission are to be paid plus applicable taxes on such commission.

3. REPRESENTATION: The Seller acknowledges that the Listing Brokerage has provided the Seller with written information explaining agency relationships, including information on Seller Representation, Sub-agency, Buyer Representation, Multiple Representation and Customer Service. The Seller understands that unless the Seller is otherwise informed, the co-operating brokerage is representing the interests of the buyer in the transaction. The Seller further acknowledges that the Listing Brokerage may be listing other properties that may be similar to the Seller's Property and the Seller hereby consents to the Listing Brokerage acting as an agent for more than one seller without any claim by the Seller of conflict of interest. Unless otherwise agreed in writing between Seller and Listing Brokerage, any commission payable to any other brokerage shall be paid out of the commission the Seller pays the Listing Brokerage.

INTENTIONALLY DELETED.

MULTIPLE REPRESENTATION: The Seller hereby acknowledges that the Listing Brokerage may be entering into buyer representation agreements with buyers who may be interested in purchasing the Seller's Property. In the event that the Listing Brokerage has entered into or enters into a buyer representation agreement with a prospective buyer for the Seller's Property, the Listing Brokerage will obtain the Seller's written consent to represent both the Seller and the buyer for the transaction at the earliest practical opportunity and in all cases prior to any offer to purchase being submitted or presented.


The Seller understand and acknowledges that the Listing Brokerage must be impartial when representing both the Seller and the buyer and equally protect the interests of the Seller and buyer. The Seller understands and acknowledges that when representing both the Seller and the buyer, the Listing Brokerage shall have a duty of full disclosure to both the Seller and the buyer, including a requirement to disclose all factual information about the Property known to the Listing Brokerage.


- However, the Seller further understands and acknowledges that the Listing Brokerage shall not disclose:
- that the Seller may or will accept less than the listed price, unless otherwise instructed in writing by the Seller;
 - that the buyer may or will pay more than the offered price, unless otherwise instructed in writing by the buyer;
 - the motivation of or personal information about the Seller or buyer, unless otherwise instructed in writing by the party to which the information applies or unless failure to disclose would constitute fraudulent, unlawful or unethical practice;
 - the price the buyer should offer or the price the Seller should accept; and
 - the Listing Brokerage shall not disclose to the buyer the terms of any other offer.


However, it is understood that factual market information about comparable properties and information known to the Listing Brokerage concerning potential uses for the Property will be disclosed to both Seller and buyer to assist them to come to their own conclusions.

Where a Brokerage represents both the Seller and the Buyer (multiple representation), the Brokerage shall not be entitled or authorized to be agent for either the Buyer or the Seller for the purpose of giving and receiving notices.

MULTIPLE REPRESENTATION AND CUSTOMER SERVICE: The Seller understands and agrees that the Listing Brokerage also provides representation and customer service to other sellers and buyers. If the Listing Brokerage represents or provides customer service to more than one seller or buyer for the same trade, the Listing Brokerage shall, in writing, at the earliest practicable opportunity and before any offer is made, inform all sellers and buyers of the nature of the Listing Brokerage's relationship to each seller and buyer.

INITIALS OF LISTING BROKERAGE: 

INITIALS OF SELLER(S): 

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SCHEDULE "A"

TO A LISTING AGREEMENT BETWEEN AVISON YOUNG COMMERCIAL REAL ESTATE SERVICES, LP ("Listing Brokerage") AND msi Spergel Inc., solely in its capacity as Court-appointed Receiver of 2580363 Ontario Inc. and 2580361 Ontario Inc. , and not in any corporate or personal capacity (the "Receiver" and/or "Seller"), for the Property municipally known as 21 Augusta Street, City of Hamilton, Ontario.

1. Notwithstanding any other provision contained in this Agreement, the Seller shall only be liable to pay the commission provided for in the Listing Agreement if the transaction contemplated herein is completed (a "Transaction"). AVISON YOUNG COMMERCIAL REAL ESTATE SERVICES LP (hereinafter, the "Broker") acknowledges that the sale is taking place pursuant to the court order of The Honourable Justice MacNeil dated June, 2nd, 2022 , and that further court approval of the sale ("Court Approval") is a pre-condition to completion of a Transaction. The Seller cannot guarantee that Court Approval for any such Transaction will be obtained. The Brokerage also acknowledges that the purchaser of the Property may include in the agreement of purchase and sale certain conditions which the Seller is required to fulfil prior to closing (collectively, "Conditions") including, without limitation, the delivery of vacant possession. The fulfilment of such Conditions by the Seller cannot be guaranteed. The parties agree that no commission shall be payable if a Transaction is not completed because Court Approval is not obtained or if the Conditions are not met or are impracticable to meet.
2. It is further understood and agreed that the Broker shall offer the Property for sale on an "as is, where is" basis and that the Broker shall make no representations, warranties, promises or agreements with respect to or in any way connected with the Property, including, without limitation, the title, description, fitness, state, condition, environmental status nor the existence of any work orders or deficiency notices affecting the Property.
3. Notwithstanding any other provision of this Agreement, the Seller makes no representations or warranties regarding the Property, the condition of the Property, the existence of any insurance or its ability to enter into this listing agreement nor does the Seller provide the Broker with any Indemnification regarding any such matters.
4. In the event of any conflict between the provisions of this Schedule "A" and the provisions of the pre-printed portions of the Listing Agreement, the provisions of this Schedule "A" shall override and shall govern and prevail for all purposes.



APPENDIX "6"

AGREEMENT OF PURCHASE AND SALE

(21 Augusta Street, Hamilton, Ontario)

21st St

THIS AGREEMENT dated as of the 19th day of January, 2023.

BETWEEN:

MSI SPERGEL INC., solely in its capacity as Court-appointed receiver of **2580363 Ontario Inc.** and **2580361 Ontario Inc.** and not in its personal or corporate capacity and without personal or corporate liability.

(the "Vendor" or "Receiver")

OF THE FIRST PART

- and -

MUSE PROPERTIES LTD., as general partner for and on behalf of **MUSE PROPERTIES LIMITED PARTNERSHIP**

(the "Purchaser")

OF THE SECOND PART

IN CONSIDERATION of the mutual agreements contained in this Agreement, the sufficiency of which is acknowledged by each of the Vendor and the Purchaser, the Vendor and the Purchaser agree as follows:

1. DEFINITIONS



In this Agreement, unless the context clearly indicates otherwise, the following terms shall have the following meanings:

- (a) "**Act**" means, for purposes of Section 46 hereof only, the *Excise Tax Act* (Canada);
- (b) "**Agreement**" means this agreement of purchase and sale executed by the Purchaser and accepted by the Vendor, together with the attached schedules;
- (c) "**Approval and Vesting Order**" shall have the meaning ascribed thereto in Section 13(a) hereof and shall be substantially in the form attached as Schedule "D";
- (d) "**Buildings**" means the buildings, improvements, installations and fixtures of every nature and kind situate in, on and/or over the Lands;

- 2 -

- (e) **"Business Day"** means any day other than a Saturday or a Sunday or a statutory holiday in the Province of Ontario;
- (f) **"Claims"** means security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, writs of seizure and sale, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise;
- (g) **"Closing"** shall have the meaning ascribed to it in Section 6 hereof;
- (h) **"Court"** means the Ontario Superior Court of Justice (Commercial List);
- (i) **"Court Order"** means the Order and the Ancillary Order of the Honourable Justice MacNeil dated the 2nd day of June, 2022, whereby the Vendor was appointed receiver of 2580363 Ontario Inc. and 2580361 Ontario Inc. effective September 1st, 2022, and was given authority to sell, convey, transfer, lease or assign the Lands or any part or parts thereof, a copy of which order is attached as Schedule "A";
- (j) **"Date of Closing"** shall have the meaning ascribed to it in Section 6 hereof;
- (k) **"Deposit"** shall have the meaning ascribed to it in Section 3(a) hereof;
- (l) **"DRA"** shall have the meaning ascribed to it in Section 7(a)(i) hereof;
- (m) **"Environmental Law"** means any and all applicable international, federal, provincial, state, municipal or local laws, by-laws, statutes, regulations, treaties, orders, judgements, decrees, ordinances, official directives and all authorizations relating to the environment, occupational health and safety, health protection or any Hazardous Materials;
- (n) **"Government Authority"** means any person, body, department, bureau, agency, board, tribunal, commission, branch or office of any federal, provincial or municipal government having or claiming to have jurisdiction over part or all of the Lands, the transaction contemplated in this Agreement and/or one or both of the parties hereto and shall include a board or association of insurance underwriters;
- (o) **"Hazardous Materials"** means any contaminants, pollutants, substances or materials that, when released to the natural environment, could cause, at some immediate or future time, harm or degradation to the natural environment or risk to human health, whether or not such contaminants, pollutants, substances or materials are or shall become prohibited, controlled or regulated by any Government Authority and any "contaminants", "dangerous substances", "hazardous materials", "hazardous substances", "hazardous wastes", "industrial wastes", "liquid wastes", "pollutants" and "toxic substances", all as defined in, referred to or contemplated in federal, provincial and/or municipal legislation, regulations, orders and/or ordinances relating to environmental, health and/or safety matters and, not to limit the generality of the foregoing, includes asbestos, urea formaldehyde foam insulation and mono- or poly-chlorinated biphenyl wastes;

- (p) **"HST"** shall have the meaning ascribed thereto in Section 16(a) hereof;
- (q) **"ICA"** shall have the meaning ascribed thereto in Section 10(b) hereof;
- (r) **"Lands"** means the lands and premises legally described on Schedule "B" hereto, of which the Vendor intends to sell to the Purchaser together with all easements, rights-of-way, privileges and appurtenances attaching thereto and enuring to the benefit thereof; **AND ALL FIXTURES AND CHATTELS IN, ON OR OVER THE LANDS;**
- (s) **"Material Damages"** shall have the meaning ascribed to it in Section 8 hereof;
- (t) **"Permitted Encumbrances"** means the encumbrances listed in Schedule "C" hereof;
- (u) **"Purchase Price"** shall have the meaning ascribed thereto in Section 3 hereof;
- (v) **"Purchaser"** means MUSE PROPERTIES LTD., as general partner for and on behalf of MUSE PROPERTIES LIMITED PARTNERSHIP;
- (w) **"Purchaser's Solicitor"** means Devesh Gupta, Prudent Law, Suite 360 – 4 Robert Speck Parkway, Mississauga, ON, L4Z 1S1 Telephone No. (905) 361-9789, Fax No. (289) 801-2248;
- (x) **"Registry Office"** shall have the meaning ascribed to it in Section 7(a) hereof;
- (y) **"Rights"** means the right, title and interest, if any, of 2580363 Ontario Inc. and 2580361 Ontario Inc. in all benefits, advantages, licences, guarantees, warranties, indemnities, income, rents and options relating to the Lands and the Buildings, to the extent that they are assignable;
- (z) **"TERS"** shall have the meaning ascribed to it in Section 7(a) hereof;
- (aa) **"Vendor"** means msi Spergel inc., solely in its capacity as Court-appointed receiver of 2580363 Ontario Inc. and 2580361 Ontario Inc. and not in its personal or corporate capacity and without personal or corporate liability;
- (bb) **"Vendor's Deliveries"** shall have the meaning ascribed thereto in Section 13 hereof; and
- (cc) **"Vendor's Solicitors"** means the firm of Fogler Rubinoff LLP






DS


OVER THE LANDS;

2. **NATURE OF TRANSACTION**

The Purchaser shall purchase and the Vendor shall sell the Lands, upon and subject to the terms of this Agreement.

3. **PURCHASE PRICE**

The aggregate purchase price (the "Purchase Price") for the Lands shall be the sum of [REDACTED]. The Purchase Price shall be paid, accounted for and satisfied as follows: [REDACTED]

DS






- 4 -

- (a) **Deposit:** by the Purchaser delivering to the Vendor concurrently upon the execution of this Agreement by both parties hereto, the sum of One Hundred Thousand Dollars (\$100,000.00) (the "Deposit"), by way of certified cheque, bank draft or wire transfer drawn upon one of Canada's chartered banks, which sum shall be held by the Vendor, in trust, as a deposit pending Closing or termination of this Agreement. Subject only to the terms of this Agreement, the Deposit is to be credited on account of the Purchase Price upon completion of the transaction contemplated in this Agreement. In the event that this Agreement is terminated for any reason other than the default of the Purchaser, the Deposit shall be returned to the Purchaser forthwith, without interest or deduction. For greater certainty, if this Agreement is terminated or not completed due to a default or breach of this Agreement by the Purchaser, then the Deposit shall be released from trust and paid to the Receiver as liquidated damages within three (3) Business Days of the Closing in full and complete satisfaction of all damages, losses, costs and expenses incurred by the Receiver as a result of such default or breach by the Purchaser, whereupon neither the Receiver nor the Purchaser shall have any continuing rights or obligations hereunder; and
- (b) **Balance Due at Closing:** the balance of the Purchase Price, net of the Deposit, and subject to the adjustments expressly set out in this Agreement, by payment at Closing to the Vendor (or as the Vendor may otherwise direct in writing) by way of wire transfer from one of Canada's chartered banks.

The Vendor and the Purchaser acknowledge and agree that they shall each make their own allocations of the Purchase Price between the Lands for the purposes of the Income Tax Act (Canada) acting reasonably and any filings in accordance with the provisions thereof.

4. **CLOSING AND POST-CLOSING ADJUSTMENTS**

- (a) **Closing Adjustments:** Adjustment shall be made, as of 12:01 a.m. on the Date of Closing, for condominium fees, realty taxes, local improvement rates, municipal/provincial levies and charges, water and assessment rates, and/or utilities; provided that the aforementioned items form a lien on title and are not vested out but by the Approval and Vesting Order. There shall be no credit by the Vendor for any rents, deposits or prepaid items not actually received by the Vendor. The Date of Closing shall be for the account of the Purchaser, both as to income and expense.

5. **TERMS OF PURCHASE**

- (a) **"As Is, Where Is":** The Purchaser acknowledges that the Vendor is selling and the Purchaser is purchasing the Lands on an "as is, where is" basis subject to whatever defects, conditions, impediments, Hazardous Materials or deficiencies which may exist on the Date of Closing, including, without limiting the generality of the foregoing, any latent or patent defects in the Lands and such defects as may be revealed in the Vendor's Deliveries. The Purchaser further acknowledges that it has entered into this Agreement on the basis that the Vendor does not guarantee title to the Lands and that the Purchaser shall have conducted such inspections of the condition and title to the Lands and its lawful use, as it deems appropriate and shall have satisfied itself with regard to these matters. No representation, warranty

or condition is expressed or can be implied as to title, encumbrance, description, fitness for purpose or use, the existence or non-existence of Hazardous Materials, compliance with any or all Environmental Law, legality of rents, income, merchantability, physical condition, or quality, or lawful use or in respect of any other matter or thing whatsoever concerning the Lands, or the right of the Vendor to sell same save and except as expressly provided for in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* of Ontario or pursuant to any other applicable law do not apply hereto and have been waived by the Purchaser. All material, documentation, information, data and descriptions of, and/or in regard to the Lands contained in this Agreement and/or supplied by the Vendor, its employees, agents, contractors and/or representative, are for the purposes of reference and/or identification only and no representation, warranty or condition has or will be given by the Vendor concerning the accuracy thereof and the Purchaser acknowledges and agrees that it has not placed any reliance thereon but rather has assumed all risk in regard thereto. If the Closing occurs, the Purchaser shall assume any and all risks relating to the physical condition of the Lands which existed on or prior to the Closing Date. Neither the Purchaser nor any permitted occupant of the Lands shall have any recourse to the Vendor as a result of the nature or condition of the Lands.

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Upon mutual acceptance, the Vendor will provide a key for the Building to the Purchaser for the purpose of said property access.

- (i) Following vendor approval of the Agreement of Purchase and Sale and up to the vesting order and Closing of the transaction, the Purchaser shall have the right to unlimited property access for the purpose of reviewing the property with its advisors, vendor's and various consultants as it deems fit, provided that the Purchaser gives no less than forty-eight (48) hours advance notice to the Vendors agent for said access. The Purchaser will indemnify Vendor and hold the Vendor harmless from any and all damages, claims, actions, losses, costs, liabilities or expenses suffered or incurred by the Vendor, directly or indirectly, as a result of or in connection with said property access.

DURING REASONABLE BUSINESS HOURS
ACCEPTED TO THE VENDOR
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which will be unreasonable withheld.

- (b) Without limiting the generality of the foregoing, the Purchaser further acknowledges that the Vendor has made no representation or warranty with respect to or in any way related to the Lands including the following:

- (i) the existence, validity, terms and conditions of any licenses, permits, consents or other regulatory approvals relating to or in any way connected with the Lands or any matter or thing arising out of or in any way connected therewith;
- (ii) the conformity of the Lands to past, current or future applicable zoning or building code requirements;
- (iii) the existence of soil instability, past soil repairs, soil additions or conditions of soil fill;
- (iv) the sufficiency of any drainage;
- (v) whether the Lands are located wholly or partially in a flood plain or a flood hazard boundary or similar area;

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(xiii) The Seller agrees to convey all fixtures and chattels with the exception of the ATM and Arcade Game Machine, to the Purchaser on the Date of Closing.

- (vi) the existence or non-existence of underground storage tanks;
- (vii) any other matter affecting the stability or integrity of the Lands;
- (viii) the availability of public utilities and services for the Lands;
- (ix) the sufficiency or adequacy of any wells and water supply for irrigation or any other purpose;
- (x) the existence of zoning or building entitlements affecting the Lands;
- (xi) whether any fixtures attaching to the Lands are owned or rented;
- (xii) that keys or passcodes for the Buildings will be available on the Date of Closing or thereafter.
- ~~(xiii) there are no liens, claims, or encumbrances for any/all chattels and fixtures within the property unless provided for in writing from the Vendor to the Purchaser prior to the approval of the Agreement of Purchase and Sale~~

ON AN "AS IS, WHERE IS" BASIS,

(c) **Existing Leases:** The Purchaser agrees to assume all existing leases and occupancy agreements, if any, affecting the Lands on closing.

6. **DATE OF CLOSING**

Subject to the provisions of Sections 11 and 12 hereof, the transaction contemplated hereunder shall be completed (the moment of completion shall be referred to as "Closing") on the day which is ten (10) Business Days after the date upon which the Vendor obtains the Approval and Vesting Order (the "Date of Closing" or the "Closing Date").

7. **ELECTRONIC REGISTRATION**

(a) In the event that the electronic registration system ("TERS") is operative in the relevant land registry office (the "Registry Office"), the following provisions shall apply:

(i) The Purchaser shall be obliged to retain a solicitor who is both an authorized TERS user and is in good standing with the Law Society of Upper Canada to represent the Purchaser in connection with the completion of the transaction and shall authorize such solicitor to enter into a document registration agreement with the Vendor's Solicitors in the form prepared by The Law Society of Upper Canada, which document version was adopted by the joint LSUC-CBAO Committee on Electronic Registration of Title Documents and which can be viewed at <http://rc.lsuc.on.ca/pdf/membershipServices/dramarch04.pdf> (the "DRA"), establishing the procedures and timing for completing this transaction.

(b) If through no fault of the Purchaser's Solicitor or the Vendor's Solicitors TERS is unavailable on the Closing Date, such that the Purchaser's Solicitor is unable to register the Application for registration of the Approval and Vesting Order, then the

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transaction contemplated by this Agreement shall be completed in escrow in accordance with the terms of the DRA which shall apply until such time as TERS becomes available. Upon TERS becoming available, the Vendor's Solicitors shall advise the Purchaser's Solicitor forthwith and the parties shall arrange to complete the registration of the Application for registration of the Approval and Vesting Order as expeditiously as possible, whereupon the escrow shall be released.

In the event of any conflict or inconsistency between the terms of this Section 7 and the terms of the DRA, the terms of this Section 7 shall prevail.

8. PRE-CLOSING RISK AND POST-DAMAGE ENTITLEMENTS

The Lands are and shall remain at the Vendor's risk until Closing. In the event of material damage to the Lands prior to the Closing Date, in excess of two hundred and fifty thousand (\$250,000) Dollars, as determined by an independent third party expert appointed by the Vendor ("Material Damage"), the Purchaser may, at its option: (a) complete the transaction contemplated by this Agreement without reduction of the Purchase Price, in which event all proceeds of insurance or compensation shall be payable to the Purchaser; or (b) rescind this Agreement, and the parties hereto shall have no further rights and remedies against each other and the Deposit shall be returned to the Purchaser forthwith, without deduction. The Vendor shall use its best efforts to advise the Purchaser, in writing, within twenty-four (24) hours of the Vendor learning of any Material Damage to the Lands. The Purchaser shall have five (5) days, or such longer period as the Vendor in its sole and absolute discretion may agree to in writing, from delivery of such notice to advise the Vendor in writing as to its election, if any. In the event that the Purchaser fails to notify the Vendor in writing as to its election within the prescribed time period, the Vendor may terminate this Agreement immediately by providing written notice to the Purchaser and the parties hereto shall have no further rights and remedies against each other and the Deposit shall be returned to the Purchaser forthwith, without deduction, failing which, the Purchaser shall be deemed to have elected to complete the transaction in accordance with subparagraph (a) above.

9. VENDOR'S REPRESENTATIONS AND WARRANTIES

The Vendor represents and warrants to the Purchaser that, as at the date hereof:

- (a) **Non-Residency**: the Vendor is not now and does not intend to become, prior to Closing, a non-resident of Canada within the meaning and purpose of Section 116 of the *Income Tax Act* (Canada); the Vendor is not now and does not intend to become, prior to Closing, an agent or a trustee of such non-resident;
- (b) **Authority to Sell**: MSI SPERGEL INC. has been duly appointed as Receiver of 2580363 Ontario Inc. and 2580361 Ontario Inc. by the Court Order and has the right, power and authority to market the Lands for sale and, subject to obtaining the Approval and Vesting Order prior to Closing, on Closing MSI SPERGEL INC., shall have the power and authority to sell, convey, transfer, lease or assign the Lands as a result of the Court Order, in accordance with and subject to the terms and conditions of this Agreement and the Approval and Vesting Order.

10. PURCHASER'S REPRESENTATIONS AND WARRANTIES

The Purchaser represents and warrants to the Vendor that, as at the date hereof:

(a) Corporate Matters Regarding Purchaser: the Purchaser is a corporation duly incorporated, organized and validly subsisting under the laws of Ontario and has all requisite corporate power, authority and capacity to execute and deliver and to perform each of its obligations pursuant to this Agreement, neither the execution of this Agreement nor the performance (such performance shall include, without limitation, the exercise of any of the Purchaser's rights and compliance with each of the Purchaser's obligations hereunder) by the Purchaser of the transaction contemplated hereunder will violate:

- (i) the Purchaser's articles of incorporation and by-laws;
- (ii) any agreement to which the Purchaser is bound or is a party;
- (iii) any judgment or order of a court of competent authority or any Government Authority; or
- (iv) any applicable law;

and the Purchaser has duly taken, or has caused to be taken, all requisite corporate action required to be taken by it to authorize the execution and delivery of this Agreement and the performance of each of its obligations hereunder; and

(b) Investment Canada Act (Canada): either (i) the Purchaser is not a "non-Canadian", as defined in the *Investment Canada Act (Canada)* ("ICA"); or (ii) if the Purchaser is a "non-Canadian", this transaction is not a reviewable transaction under the ICA, or, if applicable, the Purchaser is a non-Canadian for the purpose of the ICA and will, within three (3) Business Days of the execution of this Agreement, submit to Investment Canada a fully completed Application for Review with respect to the transaction contemplated in this Agreement and will use its best efforts to obtain Investment Canada Approval within ten (10) days thereafter.

(c) Each of the Purchaser's representations and warranties contained in this Agreement shall be true at and as of the date hereof and each of such representations and warranties shall continue to be true as at Closing.

(d) The Purchaser shall have complied with each and every covenant/agreement made by it herein and required to be completed at or prior to Closing.

The Purchaser shall promptly deliver to the Vendor written notice specifying the occurrence or likely occurrence of any event which may result in any of the Purchaser's representations and warranties contained in this Agreement not continuing to be true as at Closing.

11. CONDITIONS OF CLOSING IN FAVOUR OF THE VENDOR

- (a) The Vendor's obligations contained in this Agreement shall be subject to the fulfilment at or prior to Closing, of each of the following conditions:
- (i) **Representations and Warranties**: each of the Purchaser's representations and warranties contained in this Agreement shall be true in all material respects at and as of the date hereof and each of such representations and warranties shall continue to be true in all material respects as at Closing;
 - (ii) **Covenants/Agreements**: the Purchaser shall have complied with each and every covenant/agreement made by it herein and required to be completed at or prior to Closing;
 - (iii) **Approval and Vesting Order**: the Vendor shall have obtained the Approval and Vesting Order. The Vendor shall not have received notice of appeal in respect to of the Approval and Vesting Order and the Approval and Vesting Order shall not have been stayed, varied or vacated and shall be in full force and effect and no Order restraining or prohibiting Closing shall have been made by the Court; and
 - (iv) **Corporate Steps and Proceedings**: all necessary corporate steps and proceedings shall have been taken by the Purchaser to permit the Purchaser's execution of this Agreement and performance of each of the Purchaser's obligations hereunder.
- For greater certainty, each of the conditions contained in this Section 11(a) have been inserted for the benefit of the Vendor.
- (b) The Vendor covenants to use reasonable commercial efforts to fulfil or cause to be fulfilled the condition contained in Section 11(iii) and the Purchaser covenants to use its reasonable commercial efforts to fulfil or cause to be fulfilled the conditions contained in Section 11 hereof prior to Closing.
- (c) In the event that any of the foregoing conditions shall not be fulfilled, in whole or in part, at or prior to Closing, the Vendor may, in its absolute and unfettered discretion, terminate this Agreement by written notice to the Purchaser without penalty or liability whatsoever to the Vendor, subject to the provisions of Section 3(a), hereof with respect to the Deposit, and otherwise without cost or other compensation and each of the Vendor and the Purchaser shall be released from their obligations and liabilities.

12. CONDITIONS OF CLOSING IN FAVOUR OF THE PURCHASER

- (a) The Purchaser's obligations contained in this Agreement shall be subject to the fulfilment, at or prior to Closing, of each of the following conditions:
- (i) **Representations and Warranties**: each of the Vendor's representations and warranties contained in this Agreement shall be true in all material

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respects at and as of the date hereof and each of such representations and warranties shall continue to be true in all material respects as at Closing;

- (ii) **Covenants/Agreements**: the Vendor shall have complied with each and every covenant/agreement made by it herein and required to be completed at or prior to Closing; and
- (iii) **Approval and Vesting Order**: the Vendor shall have obtained the Approval and Vesting Order. The Vendor shall not have received notice of appeal in respect to of the Approval and Vesting Order and the Approval and Vesting Order shall not have been stayed, varied or vacated and shall be in full force and effect and no Order restraining or prohibiting Closing shall have been made by the Court.

For greater certainty, each of the conditions contained in this Section 12(a) have been inserted for the benefit of the Purchaser.

- (b) The Vendor covenants to use reasonable commercial efforts to fulfil or cause to be fulfilled the conditions contained in Subsection 12(a) (ii-iii) hereof prior to Closing.

13. **VENDOR'S CLOSING DELIVERIES**

The Vendor covenants to execute, where applicable, and deliver the following to the Purchaser at Closing or on such other date expressly provided herein:

- (a) **Approval and Vesting Order**: A copy of the issued and entered Approval and Vesting Order vesting in the Purchaser all right, title and interest of 2580363 Ontario Inc. and 2580361 Ontario Inc., if any, in and to the Lands free and clear of all Claims save and except for the Permitted Encumbrances, in accordance with the provisions of this Agreement, substantially in the form as Schedule "D".
- (b) **Statement of Adjustments**: a statement of adjustments prepared in accordance with Section 4 hereof, to be delivered not less than two (2) Business Days prior to Closing (the "Statement of Adjustments"). Except as aforesaid, no adjustments shall be allowed to the Purchaser for changes in the Lands from the time of acceptance of this Agreement up to and including the Closing Date. If the final cost or amount of any item which is to be adjusted cannot be determined at Closing, then the adjustment for such items shall be made at Closing on the basis of the cost or amount as estimated by the Vendor, acting reasonably, as of the Closing Date on the basis of the best evidence available at Closing as to what the final adjustment should be. The estimated adjustments as herein set forth shall, for all purposes, be a final adjustment or final adjustments. The Closing Date will be for the Purchaser's account both as to revenue and expense;
- (c) **Direction Regarding Funds**: a direction from the Vendor designating the party or parties to which the balance of the Purchase Price described in Subsection 3(b) hereof shall be paid; in the event that the Vendor designates more than one party then it shall also designate amounts payable to each of the parties;

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- (d) **Undertaking to Re-Adjust:** the Vendor shall not be obliged to re-adjust any item on or omitted from the statement of adjustments;
- (e) **Readjustments:** The Purchaser hereby acknowledges that there may be outstanding arrears with respect to the real property taxes, condominium fees and utilities and agrees that the Vendor, at its option, shall be entitled to make adjustment on the Statement of Adjustments for such matters or, in the alternative, direct that a portion of the proceeds due on Closing be used to pay out such arrears. The Purchaser further covenants and agrees to deliver an irrevocable direction to the Government Authority authorizing it to pay to the Vendor any realty tax rebate (together with interest thereon) obtained by the Vendor for the period prior to Closing. Provided that in the event the Government Authority does not deliver such rebate directly to the Vendor, the Purchaser hereby irrevocably undertakes to deliver realty tax rebate to the Vendor upon either receipt or readjustment of same.
- (f) **Non-Residence Certificate:** the Vendor's certificate setting out that the Vendor is not a "non-resident" of Canada within the meaning and purpose of Section 115 of the *Income Tax Act* (Canada) and is not the agent nor trustee of a "non-resident"; and
- (g) **General Deliveries:** such further documentation relating to the completion of the transaction contemplated hereunder as shall be:
- (i) otherwise referred to herein; or
 - (ii) required by law and/or any Government Authority;

Provided that such further documentation is in a form satisfactory to the Vendor, taking into consideration the fact that the Vendor is selling the Lands as Receiver.

14. **PURCHASER'S CLOSING DELIVERIES**

The Purchaser covenants to execute, where applicable, and deliver the following to the Vendor at or prior to Closing:

- (a) **Direction Regarding Title:** a direction from the Purchaser designating the transferee(s) in the Approval and Vesting Order (required only in the event that the Approval and Vesting Order is to be inscribed in favour of a person/entity other than the Purchaser) provided that any such transferee(s) shall also provide a written agreement with the Vendor to assume and be bound with all of the obligations of the Purchaser under this Agreement;
- (b) **Undertaking To Re-Adjust:** the Purchaser's undertaking to re-adjust any item on or omitted from the statement of adjustments, subject to the limitation contained in Subsection 4(a) hereof;
- (c) **Purchaser's Certificates:** the Purchaser's certificate setting out that each of the Purchaser's representations and warranties contained in this Agreement are true

as at Closing and, if applicable, the Purchaser's certificate described in Section 16 hereof;

- (d) **Directors' Resolution:** a certified copy of a resolution of the board of directors of the Purchaser authorizing the execution of this Agreement and performance of each of the Purchaser's obligations hereunder;
- (e) **HST Indemnity:** the indemnity provided for under Section 16 hereof;
- (f) **Certificate of Incumbency:** a certificate of incumbency setting out the names and specimen signatures of each of the directors and officers of the Purchaser;
- (g) **Purchaser's Agents Commissions:** evidence of payment by the Purchaser of any commission or other remuneration payable to the Purchaser's agent, if any, in connection with the purchase of the Lands, or a certificate from the Purchaser certifying that it has not retained any such agent and that no such commission or other remuneration is payable;
- (h) **Environmental Indemnity:** an environmental indemnity indemnifying and holding the Vendor harmless from any and all damages, claims, actions, losses, costs, liabilities or expenses (collectively "Damages") suffered or incurred by the Vendor, directly or indirectly, as a result of or in connection with any of the following, whether arising as a result of the actions of Vendor and/or its predecessors, or of any party claiming through the Vendor, or otherwise, and without restricting the generality of the foregoing, which include Damages incurred in addressing an administrative order by a Government Authority or in addressing a notice, investigation or other process which could reasonably be anticipated to result in such an order:
 - (i) the presence or release of any Hazardous Materials in, on or under the Lands or the threat of a release;
 - (ii) the presence of any Hazardous Materials in, on or under properties adjoining or proximate to the Lands;
 - (iii) any other environmental matters relating to the Lands;
 - (iv) the breach by the Purchaser or those for whom it is responsible at law of any Environmental Law applicable to the Lands; or,
 - (v) the release or threatened release of any Hazardous Materials owned, managed, generated, disposed of, controlled or transported by or on behalf of the Purchaser.
- (i) **Balance Due at Closing:** the balance of the Purchase Price described in Subsection 3(b) hereof; and
- (j) **Further Documentation:** any other documentation relative to the completion of this Agreement as may reasonably be required by the Vendor or the Vendor's Solicitors.

15. PLANNING ACT (ONTARIO)

This Agreement shall be effective to create an interest in the Lands for the Purchaser only if Part VI of the *Planning Act* (Ontario) is complied with prior to Closing. The Purchaser shall not require the Vendor to make any statements contemplated by section 50(22) of the *Planning Act* (Ontario) as amended, from time to time or any successor provision thereto. The Purchaser agrees to satisfy itself with respect to compliance with the *Planning Act* (Ontario).

16. HARMONIZED GOODS AND SERVICES TAX

(a) Application of HST to this Agreement: If the transaction contemplated hereunder shall be subject to the goods and services tax ("HST") levied pursuant to the Act, then HST shall be in addition to and not included in the Purchase Price and shall be collected and remitted in accordance with the Act.

(b) Self-Assessment: If part or all of the said transaction is subject to HST and:

- (i) the Vendor is a non-resident of Canada or the Vendor would be a non-resident of Canada but for Subsection 132(2) of the Act; and/or
- (ii) the Purchaser is a "prescribed recipient" under the Act and/or is registered under the Act,

then the Purchaser shall deliver, prior to Closing, its certificate in form prescribed by the Act or, if no such form is prescribed, then in reasonable form, certifying and undertake that the Purchaser shall be liable for, shall self-assess and shall remit to the appropriate Government Authority all HST payable in respect of the transaction contemplated hereunder. If Subsection 16(b)(f) hereof shall be applicable, then the Purchaser's certificate shall also include certification of the Purchaser's prescription and/or registration, as the case may be, and the Purchaser's HST registration number. If the Purchaser shall fail to deliver its certificate, then the Purchaser shall tender to the Vendor, at Closing, in addition to the balance due at Closing described in Subsection 3(b) hereof, an amount equal to the HST that the Vendor shall be obligated to collect and remit in connection with the said transaction.

(c) HST Indemnity: The Purchaser shall indemnify and save harmless the Vendor from all taxes, levies, claims, liabilities, penalties, interest, costs and legal and other expenses incurred, directly or indirectly, in connection with the assessment of HST payable in respect of the transaction contemplated hereunder and/or the Purchaser failing to comply with the said certificate and undertaking set out in Subsection 16(b).

17. NOTICE

Any notice given hereunder shall be in writing and delivered or communicated by telecopier machine to:

in the case of the Purchaser to:

MUSE PROPERTIES LTD., as general partner for and on behalf of MUSE PROPERTIES LIMITED PARTNERSHIP

17 Main Street North
Waterdown, ON
L0R 2H0

Attention: Kartik Ganatra
Email: kganatra@seallinkltd.ca

with a copy to the Purchaser's Solicitor at:

Prudent Law
Suite 300 - 4 Robert Speck Parkway
Mississauga, ON
L4Z 1S1

Attention: Devesh Gupta
Email: devesh@prudentlaw.ca
Fax: (289) 801-2248

and in the case of the Vendor to:

msi Spergel Inc., in its Capacity as
Court-Appointed Receiver of
2580363 Ontario Inc. and 2580361 Ontario Inc.
21 King Street West, Suite 1502
Hamilton, ON L8P 4W7

Attention: Trevor Pringle
Email: tpringle@spergel.ca
Fax: 905-527-8670

with a copy to the Vendor's Solicitors:

Fogler, Rubinoff LLP
77 King Street West, Suite 3000
Toronto, ON M5K 1G8

Attention: Scott Venton
Email: sventon@foglers.com

Such notice shall be deemed to have been delivered upon delivery or communicated upon transmission unless such notice is delivered or transmitted outside of usual business hours, in which event the notice shall be deemed to have been delivered or transmitted on the next Business Day. A party may change its address, email address and/or fax number by providing notice in accordance with this Section 17.

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18. WAIVER OF CONDITIONS

Except as otherwise provided in this Agreement, all conditions contained herein have been inserted for the benefit of either the Vendor or the Purchaser, as indicated, and are conditions of the obligations of such party to complete the transaction contemplated hereunder at Closing and are not conditions precedent of this Agreement. Any one or more of the said conditions may be waived, in writing, in whole or in part, by the benefiting party without prejudice to the benefiting party's right of termination in the event of the non-fulfillment of any other condition, and, if so waived, this Agreement shall be read exclusive of the said condition or conditions so waived. For greater certainty, the closing of the transaction contemplated hereunder by a party hereof shall be deemed to be a waiver by such party of compliance with any condition inserted for its benefit and not satisfied at Closing.

19. SEVERABILITY

If any provision contained in this Agreement or the application thereof to any person/entity or circumstance is, to any extent, invalid or unenforceable, the remainder of this Agreement and the application of such provision to persons/entities or circumstances other than those to whom/which it is held invalid or unenforceable, shall not be affected thereby and each provision contained in this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

20. DIVISION/HEADINGS

The division of this Agreement into Sections, Subsections, Paragraphs and Subparagraphs and the insertion of headings or captions are for convenience of reference only and shall not affect the construction or interpretation of this Agreement or any part hereof.

21. ENTIRE AGREEMENT

This Agreement and the schedules attached hereto constitute the entire agreement between the Vendor and the Purchaser in respect of the Lands. Each of the parties acknowledges that, except as contained in this Agreement, there is no representation, warranty, collateral agreement or condition (whether a direct or collateral condition or an express or implied condition) which induced it to enter into this Agreement.

22. CUMULATIVE REMEDIES

No remedy conferred upon or reserved to one or both of the parties hereto is intended to be exclusive of any other remedy, but each remedy shall be cumulative and in addition to every other remedy conferred upon or reserved hereunder, whether such remedy shall be existing or hereafter existing, and whether such remedy shall become available under common law, equity or statute.

23. INTERPRETATION

This Agreement shall be read with all changes of gender and number as required by the context.

24. REFERENCES TO STATUTES

Except as otherwise provided in this Agreement, references to any statute herein shall be deemed to be a reference to such statute and any and all regulations from time to time promulgated thereunder and to such statute and regulations as amended or re-enacted from time to time. Any reference herein to a specific section or sections, paragraph or paragraphs and/or clause or clauses of any statute or regulations promulgated thereunder shall be deemed to include a reference to any corresponding provision of future law.

25. TIME OF ESSENCE

Time shall in all respects be of the essence hereof provided that the time for the doing or completing of any matter referred to herein may be extended or abridged by an agreement, in writing, executed by the Vendor and the Purchaser or their respective solicitors who are hereby expressly appointed for that purpose.

26. CANADIAN FUNDS

All references to dollar amounts contained in this Agreement shall be deemed to refer to Canadian funds.

27. TENDER

Not to limit the provisions of paragraph 7, any tender of notices, documents and/or monies hereunder may be made upon the Vendor or the Purchaser or their respective solicitors. Monies may be tendered by a negotiable cheque certified by a Canadian chartered bank or by an official bank draft drawn upon one of Canada's five largest chartered banks.

28. FURTHER ASSURANCES

Except as otherwise expressed herein to the contrary, each party shall, without receiving additional consideration therefore, co-operate with and take such additional actions as may be requested by the other party, acting reasonably, in order to carry out the purpose and intent of this Agreement.

29. CONFIDENTIALITY

The Purchaser and its agents, advisors and authorized representatives shall maintain in strict confidence, until Closing, all information and materials delivered or made available pursuant to this Agreement, except as may reasonably be disclosed by the Purchaser:

- (a) to facilitate the procurement of financing for the Lands;
- (b) to enforce any of its rights/remedies hereunder;
- (c) to enforce any of its other rights/remedies, if any, pursuant to common law, equity or statute; or
- (d) to comply with laws requiring disclosure.

In the event that the transaction contemplated in this Agreement is, for any reason whatsoever, not completed, then the Purchaser shall, upon request from the Vendor,

promptly return to the Vendor all materials delivered hereunder and deliver to the Vendor all copies of materials made available hereunder.

30. NON-BUSINESS DAYS

In the event that any date specified or any date contemplated in this Agreement shall fall upon a day other than a Business Day, then such date shall be deemed to be the next following Business Day.

31. DOCUMENTATION PREPARATION AND REGISTRATION

The Purchaser shall prepare or cause to be prepared the documentation described in Subsections 14(a), (d), (f) and (g) hereof. The Vendor shall prepare or cause to be prepared all other documentation described in Sections 13 and 14 hereof. Each of the parties shall deliver draft documentation to the other not less than five (5) Business Days prior to Closing. Except as otherwise expressly provided in this Agreement, all such documentation shall be in form and have substance satisfactory to the Vendor and the Purchaser, acting reasonably. The Purchaser shall be responsible for and pay all registration costs incurred in connection with the transaction contemplated in this Agreement. Except as otherwise expressly provided in this Agreement, each of the Vendor and the Purchaser shall be responsible for and pay all legal and other professional/consultant fees and disbursements incurred by it, directly or indirectly, in connection with this Agreement.

32. LAND TRANSFER TAXES, RETAIL SALES TAXES AND PROPERTY TAXES

The Purchaser shall pay on or prior to Closing all land transfer taxes (as required pursuant to the *Land Transfer Tax Act* (Ontario)) payable in connection with the transfer of the Lands pursuant to this Agreement.

The Purchaser acknowledges that the Vendor may apply for a reduction in the taxes payable to the municipality with respect to the Lands for the period prior to the Closing Date. The Purchaser agrees that the Vendor shall be entitled to the benefit of any such reduction for the period prior to the Closing Date. The Purchaser shall execute such directions, acknowledgements and other documents as may be necessary or desirable to ensure that the benefit of any such reduction for the period prior to the Closing Date is received by the Vendor.

33. GOVERNING LAWS

This Agreement has been executed in the Province of Ontario and, for all purposes, shall be construed in accordance with and governed by the laws in effect within the Province of Ontario.

34. ASSIGNMENT

The Purchaser shall not assign part or all of its interest under this Agreement without the prior written consent of the Vendor, which consent may be arbitrarily withheld. The Vendor shall have the unilateral right in its sole and unfettered discretion to assign this Agreement to any other party at any time prior to Closing provided that such party is the registered owner of the Lands as of Closing, who, from the time of such assignment, shall be entitled to all of the benefits and shall assume and be subject to all of the obligations

and liabilities of the Vendor hereunder and, upon such assignment and written notice thereof given by the Vendor to the Purchaser, the Vendor shall be fully and forever released from all obligations and liability under this Agreement. In this regard, the Purchaser hereby acknowledges and agrees that it shall accept title from the registered owner of the Lands and will accept such owner's title covenants in lieu of those of the Vendor, in the event that the Vendor is not the registered owner of the Lands on the Closing Date.

35. NON-REGISTRATION OF AGREEMENT

The Purchaser acknowledges that this Agreement is personal to the Purchaser and that this Agreement or any monies paid hereunder do not create an interest in the Lands and the Purchaser further acknowledges that upon any breach of this Agreement by the Vendor the Purchaser will not register or cause or permit to be registered this Agreement and that no reference to or notice of it or any caution, certificate of pending litigation or other similar court process in respect thereof shall be registered on title to the Lands, and the Purchaser shall be deemed to be in default under this Agreement if it makes any registration or causes or permits any registration to be made on title to the Lands prior to the Date of Closing.

36. VENDOR'S CAPACITY

It is acknowledged by the Purchaser that msi Spergel inc. is entering into this Agreement solely in its capacity as Court-appointed receiver of 2580363 Ontario Inc. and 2580361 Ontario Inc. msi Spergel inc. shall have no personal or corporate liability under or as a result of this Agreement. Any claim against msi Spergel inc. shall be limited to and only enforceable against the property and assets then held by or available to it in its capacity as receiver of 2580363 Ontario Inc. and 2580361 Ontario Inc. and shall not apply to its personal property and other assets held by it in any other capacity. The term "Vendor" as used in this Agreement shall have no inference or reference to the present registered owner of the Lands.

37. SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.

38. TIME FOR ACCEPTANCE

The offer to purchase comprising this Agreement shall be irrevocable by the Purchaser and open for acceptance by the Vendor until 5:00 o'clock p.m. on the 2nd day of February, 2023, after which time, if not accepted and notice of such acceptance communicated to

Handwritten signatures and initials:
VENDOR JP
PURCHASER JP
VENDOR JP
PURCHASER JP

Handwritten signatures and initials:
PURCHASER JP
VENDOR (u)
PURCHASER JP

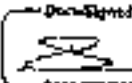
12:00pm on the 6 day of February
DS
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Purchaser DS
✍

the Purchaser, then the said offer to purchase shall be null and void and of no further force and effect.

DATED as of the date first mentioned above.

MUSE PROPERTIES LTD., as general partner for and on behalf of MUSE PROPERTIES LIMITED PARTNERSHIP

By:  _____
DocuSigned By: Karlik Ganatra

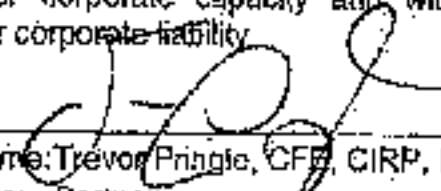
Name: Karlik Ganatra
Title: Director

I have authority to bind the Corporation.

The Vendor hereby accepts the foregoing offer to purchase and its terms and agrees with the Purchaser to duly complete the transaction contemplated thereunder.

DATED this 27th day of JANUARY, 2023.

MSI SPERGEL INC., in its capacity as Court-Appointed Receiver of 2580363 Ontario Inc. and 2580361 Ontario Inc. and not in its personal or corporate capacity and without personal or corporate liability

By:  _____
Name: Trevor Pringle, CFE, CIRP, LIT
Title: Partner

I have authority to bind the Receiver

DS 

The Buyer hereby acknowledges that all changes to this Agreement have been agreed to and accepted this 6th day of February, 2023, at 3:00pm.

**Schedule "A" – COURT ORDER
OF THE HONOURABLE JUSTICE MACNEIL**



Court File No. CV-22-00078521-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE)	THURSDAY, THE 2 nd
)	
JUSTICE MacNEIL)	DAY OF JUNE, 2022

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

2580363 ONTARIO INC. AND 2580361 ONTARIO INC.

Respondents

ANCILLARY ORDER

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. ("Spergel") as receiver (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of 2580363 Ontario Inc. and 2580361 Ontario Inc. (collectively, the "Debtors") acquired for, or used in relation to the business carried on by the Debtors, including the real property described at Schedule "A" to the Appointment Order, as defined below, and owned by 2580361 Ontario Inc. (the "Real Property"), was heard this day by Judicial teleconference via Zoom at 45 Main Street East, Hamilton, Ontario.

ON READING the affidavit of Jill Lamothe sworn April 7, 2022 and the Exhibits thereto (the "Lamothe Affidavit"), and on hearing the submissions of counsel for the Applicant, and counsel for the Respondents, no one appearing for any other party on the service list although duly served as appears from the affidavit of service of Lindsay Ferguson sworn April 13, 2022 and the affidavits of service of Darlene Ashurst sworn April 19, 2022.

1. **THIS COURT ORDERS** that the Order appointing Spergel as Receiver of the Property of the Debtors dated June 2, 2022 (the "Appointment Order"), in the herein Application shall be effective on September 1, 2022, subject to the following:
 - a. THIS COURT ORDERS that this Application is adjourned to a date to be set in September 2022 to be spoken to. This Court further Orders that, should the Debtors fulfill all terms of the Agreement between the Debtors and the Applicant dated May 26, 2022 (the "Forbearance Agreement") on or before August 31, 2022, including payment of the indebtedness due to the Applicant and all interest and costs, then the Appointment Order will not be effective. In such case, the herein Application shall be withdrawn on a without-costs basis, and the Applicant shall speak to this matter on a date to be set in September 2022 to advise the Court of same;
 - b. THIS COURT ORDERS that in the event that the Debtors fail to pay the indebtedness due to the Applicant, including all interest and costs, on or before August 31, 2022, or in the event that the Debtors otherwise default under the terms of the Forbearance Agreement (a "Default"), then the Appointment Order shall be effective as of September 1, 2022 or the date of such Default, whichever comes first, and the Applicant shall speak to this matter in September, 2022, or earlier if a Default does take place, to advise the Court of same.
2. **THIS COURT ORDERS** that the Applicant shall have the right to return the application on an earlier date, on four (4) days' notice to the service list, should the Applicant's security and the assets encumbered thereunder (as detailed in the Lamothe Affidavit) be determined by the Applicant to be at risk.



Justice, Ontario Superior Court of Justice

Electronically Issued and Entered

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Harsha Goordyal
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o=Government of
Ontario, ou=People,
serialNumber=DSAP43
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THE TORONTO-DOMINION BANK

v.

2580363 ONTARIO INC. and 2580361 ONTARIO INC.

Applicant

Respondents

Court File No. CV-22-00078521-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT HAMILTON

ANCILLARY ORDER**HARRISON PENZA LLP**Barristers & Solicitors
450 Talbot Street
London, Ontario N6A 5J6**Timothy C. Hogan (LSO #36553S)**
Robert Danter (LSO #69806O)Tel: (519) 679-9660
Fax: (519) 667-3362
Email: thogan@harrisonpensa.com
rdanter@harrisonpensa.comSolicitors for the Applicant,
The Toronto-Dominion Bank



Court File No. CV-22-000078521-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE
JUSTICE MacNEIL

)
)
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THURSDAY, THE
2nd DAY OF JUNE, 2022

THE TORONTO-DOMINION BANK

Applicant

-and-

2580363 ONTARIO INC. AND 2580361 ONTARIO INC.

Respondents

ORDER
(Appointing Receiver)

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing msi Spergel inc. as receiver (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of 2580363 Ontario Inc. and 2580361 Ontario Inc. (collectively, the "Debtors") acquired for, or used in relation to a business carried on by the Debtors, including the real property described at Schedule "A" hereto and owned by 2580361 Ontario Inc. (the "Real Property"), was heard this day by judicial videoconference via Zoom at 45 Main Street East, Hamilton, Ontario.

ON READING the affidavit of Jill Lamothe sworn April 7, 2022 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant and the Respondents as duly served

as appears from the affidavit of service of Lindsay Ferguson sworn April 13, 2022 and on reading that msi Spergel inc. has consented to act as the Receiver.

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application is hereby abridged and validated, so that this 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 properties of the Debtors acquired for, or used in relation to a business carried on by the Debtors, including the Real Property, and also including all proceeds thereof (collectively, the "Property").

RECEIVER'S POWERS

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtors, 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 Debtors;

- (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 Debtors, or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors, and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to the Debtors;
- (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 Debtors 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 Debtors, 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 \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$150,000; 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 Debtors;

- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtors 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 Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtors (ii) all of the Debtors' 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 Debtors, 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 DEBTORS OR THE PROPERTY

9. THIS COURT ORDERS that no Proceeding against or in respect of the Debtors 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 Debtors 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 Debtors, 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 Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors 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 Debtors 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 Debtors 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 Debtors 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 Debtors' 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 Debtors 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 Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors' 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 Debtors, 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 \$100,000 (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 "B" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

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

SERVICE AND NOTICE

25. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL '<https://www.spergelcorporate.ca/engagements>'.

26. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other

materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors, and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

27. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

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


29. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

30. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

31. THIS COURT ORDERS that the 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 Debtors' estate with such priority and at such time as this Court may determine.

32. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



Justice, Ontario Superior Court of Justice

Electronically Issued and Entered

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Ontario, ou=People,
serialNumber=DSAP43
2290, cn=Harsha
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Date: 2022.06.06
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SCHEDULE "A"**REAL PROPERTY**

PT LT 130 PL 1431 GEORGE HAMILTON SURVEY AS IN CD480053, S/T & T/W VM271333; CITY OF HAMILTON (PIN 17170-0018 LT)

SCHEDULE "B"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that msi Spergel inc., the receiver (the "Receiver") of the assets, undertakings and properties of 2580363 Ontario Inc. and 2580361 Ontario Inc. acquired for, or used in relation to a business carried on by the Debtors, including the Real Property (as defined in the Appointment Order), and including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ___ day of _____, 20__ (the "Order") made in an action having Court file number __-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

msi Spergel inc., solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____
Name:
Title:

THE TORONTO-DOMINION BANK

v.

2580363 ONTARIO INC. and 2580361 ONTARIO INC.

Applicant

Respondents

Court File No. CV-22-00078521-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT HAMILTON

APPOINTING ORDER**HARRISON PENZA LLP**Barristers & Solicitors
450 Talbot Street
London, Ontario N6A 5J6**Timothy C. Hogan (LSO #36553S)**
Robert Danter (LSO #698060)Tel: (519) 679-9660
Fax: (519) 667-3362
Email: thogan@harrisonpensa.com
rdanter@harrisonpensa.comSolicitors for the Applicant,
The Toronto-Dominion Bank

Schedule "B" – LEGAL DESCRIPTION OF PROPERTY

The real property municipally known as 21 Augusta Street, Hamilton, Ontario, legally described as: PT LT 130 PL 1431 GEORGE HAMILTON SURVEY AS IN CD480053, S/T & T/W VM271333; CITY OF HAMILTON (PIN 17170-0018 LT)

Schedule "C" – PERMITTED ENCUMBRANCES

1. The reservations, limitations, exceptions, provisos and conditions, if any, expressed in any original grants from the Crown.
2. Applicable municipal by-laws and regulations provided, in each case the same do not materially adversely affect the use or value of the Purchase Assets for commercial parking purposes.
3. Any right of expropriation, access or user, or any similar rights conferred by or reserved in any statutes of Canada or the Province of Ontario.
4. Unregistered or inchoate statutory liens, charges or encumbrances affecting title to the Property for taxes, assessments, governmental charges or levies not yet due or any other unregistered statutory liens.
5. The exceptions and qualifications contained in paragraphs 7, 8, 9, 10, 12 and 14 of Subsection 44 (1) of the *Land Titles Act*.
6. Any defects or deficiencies which an up-to-date building location survey of the property might reveal.
7. Easements, rights-of-way and/or licenses now registered for the supply and installation of utility services, drainage, telephone services, electricity, gas, storm and/or sanitary sewers, water, cable television and/or any other service(s) to or for the benefit of the Project (collectively, the "Utility Easements"), together with any easement and cost-sharing agreement(s) or reciprocal agreement(s) confirming (or pertaining to) any easement or right-of-way for access, egress, support and/or servicing purposes, and/or pertaining to the sharing of any services, facilities and/or amenities with adjacent or neighboring property owners or any crane access agreements or tieback or shoring agreements provided, in each case the same do not materially adversely affect the use or value of the Purchase Assets for commercial parking purposes.
8. Registered municipal agreements and registered agreements with publicly regulated utilities including without limitation, any development, site plan, subdivision, engineering, heritage easement agreements and/or other municipal agreement (or similar agreements entered into with any governmental authorities), (with all of such agreements being hereinafter collectively referred to as the "Development Agreements") provided, in each case, the terms and conditions of each such Development Agreement has been complied with in all material respects and does not materially adversely affect the use of the Purchase Assets for commercial parking purposes.
9. Agreements relating to any metering, submetering and/or check metering equipment, or relating to the supply of utility services to the Public Parking Garage.
10. Any shared facilities agreements, reciprocal and/or cost sharing agreements, or other agreements, easements or rights-of-way with the Project forming part of the Project and/or adjoining properties including the Reciprocal Operating Agreement provided, in each case, the terms and conditions of each such agreement has been complied with in all material respects and does not materially adversely affect the use the use of the Purchase Assets for commercial parking purposes.

Schedule "D" FORM OF VESTING ORDER

APPROVAL AND VESTING ORDER

Court File No. CV-22-000078521-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE) , THE
JUSTICE)
) DAY OF , 2023

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

-and-

2580363 ONTARIO INC. and 2580361 ONTARIO INC.

Respondents

APPLICATION UNDER section 243 of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended, and under section 101 of the Courts of Justice Act, R.S.O. 1990, c. C.43

APPROVAL AND VESTING ORDER

THIS MOTION, made by [RECEIVER'S NAME] in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and [NAME OF PURCHASER] (the "Purchaser") dated [DATE] and appended to the Report of the Receiver dated [DATE] (the "Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

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ON READING the Report and on hearing the submissions of counsel for the Receiver, [NAMES OF OTHER PARTIES APPEARING], no one appearing for any other person on the service list, although properly served as appears from the affidavit of [NAME] sworn [DATE] filed¹:

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved,² and the execution of the Sale Agreement by the Receiver³ is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement [and listed on Schedule B hereto]⁴ shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims"⁵) including, without limiting the generality of the foregoing: (i) any

¹ This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.

² In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.

³ In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.

⁴ To allow this Order to be free-standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.

⁵ The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.

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encumbrances or charges created by the Order of the Honourable Justice [NAME] dated [DATE]; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the *Land Registration Reform Act* duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*]⁶, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

4. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds⁷ from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale⁸, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

⁶ Elect the language appropriate to the land registry system (Registry vs. Land Titles).

⁷ The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".

⁸ This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.

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

6. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "●" to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

7. THIS COURT ORDERS that, notwithstanding:

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

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

8. THIS COURT 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.

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All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule A – Form of Receiver’s Certificate

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

PLAINTIFF

Plaintiff

- and -

DEFENDANT

Defendant

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable [DATE OF JUDGE] of the Ontario Superior Court of Justice (the "Court") dated [DATE OF ORDER], [NAME OF RECEIVER] was appointed as the receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the "Debtor").

B. Pursuant to an Order of the Court dated [DATE], the Court approved the agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "Sale Agreement") between the Receiver [Debtor] and [NAME OF PURCHASER] (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section ● of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

THE RECEIVER CERTIFIES the following:

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

**[NAME OF RECEIVER], in its capacity as
Receiver of the undertaking, property and
assets of [DEBTOR], and not in its personal
capacity**

Per: _____

Name:

Title:

Schedule B – Purchased Assets

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

- 3 -

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

(unaffected by the Vesting Order)

APPENDIX "7"

Court File No. CV-22-000078521 0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

2580363 ONTARIO INC. AND 2580361 ONTARIO INC.

Respondents

**AFFIDAVIT OF TREVOR PRINGLE
(sworn April 12, 2023)**

I, **TREVOR PRINGLE**, of the City of Hamilton, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a Licensed Insolvency Trustee with msi Spergel Inc. ("**MSI**"), the court-appointed Receiver {the "**Receiver**"} of all the assets, undertakings and properties of the Respondents. As such I have knowledge of the matters hereinafter deposed to.
2. MSI was appointed Receiver pursuant to the Order made by the Honourable Justice MacNeil of the Ontario Superior Court of Justice on June 2, 2022 and took effect September 1, 2022.
3. Attached hereto as Exhibit "A" and "B" are true copies of the Receiver's accounts with respect to professional fees incurred in respect of the receivership of 2580361 Ontario Inc. and 2580363 Ontario Inc. for the period of September 1, 2022 to March 31, 2023. With respect to 2580361 Ontario Inc., this is in the amount of \$84,470.98, inclusive of HST and disbursements. This represents a total of 204.15 hours at an average rate of \$366.13 per hour. With respect to 2580363 Ontario Inc., this is in the amount of \$1,365.13,

inclusive of HST and disbursements. This represents a total of 4 hours at an average rate of \$300.25 per hour. The accounts and supporting time docket disclose in detail: the nature of the services rendered, the time expended by each person and their hourly rates, disbursements charged and the total charges for the services rendered.

- 4. The hourly billing rates detailed in this Affidavit are the standard billing and charge out rates of MSI for services rendered in relation to similar proceedings.
- 5. To the best of my knowledge the rates charged by MSI in connection with acting as Receiver are comparable to the rates charged by other firms in the Hamilton market for the provision of similar services.
- 6. I make this affidavit in support of the Receiver's motion for; *inter alia*, approval of its fees and disbursements and not for an improper purpose.

SWORN BEFORE ME at the City of Hamilton, in the Province of Ontario, this 12th day of April, 2023.

A Commissioner, etc.

Evan Scott McCullagh, a Commissioner, etc.,
Province of Ontario, for msi Spergal Inc.
Expires October 6, 2023.

TREVOR PRINGLE

**This is Exhibit "A"
To the Affidavit of Trevor Pringle**

dated April 12, 2023

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

**Evan Scott McCullagh, a Commissioner, etc.,
Province of Ontario, for MSI Spengel Inc.
Expires October 6, 2023.**

April 11, 2023

Invoice #: 12485

2580361 Ontario Inc.

Invoice

RE: 2580361 Ontario Inc.

FOR PROFESSIONAL SERVICES RENDERED in the period to and including March 31, 2023, in connection with the Court-appointed receivership proceedings

	Hours	Hourly Rate	Total
Trevor Pringle, CFE, CIRP, LIT	52.60	\$450.00	\$23,670.00
Mukul Manchanda, CPA, CIRP, LIT	48.50	450.00	21,825.00
Evan McCullagh	81.95	290.00	23,765.50
Paula Amaral	11.70	290.00	3,393.00
Others	9.40	222.61	2,092.50
<hr/>			
Total Professional fees	204.15	\$366.13	\$74,746.00
HST			9,716.98
 Reimbursable Expenses			
PPSA Search			\$8.00
<hr/>			
Total Reimbursable expenses			\$8.00
Total			\$84,470.98

HST Registration #R103478103

(AAAOUT-R)

Filters Used:

- Time Entry Date: 1/01/70 to 3/31/23
- File ID: AAAOUT-R: to AAAOUT-R:
- Time Entry Bill Status: Un-Billed to Un-Billed

Printed on: 4/11/23

Page 1 of 17

File Name (ID): 2580361 Ontario Inc. (AAAOUT-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Evan McCullagh (EMC)					
Wed	08/31/2022	review order; discussion re taking possession review tenant letter, make changes, review door notice, make changes; review and start FCA form;	0.50	\$290.00	\$145.00
Fri	09/02/2022	Review Utility letters; discussion with TP re perishables, liquor, tenant issues, utilities, 3rd floor access; discussion with Rocco re meeting to review disposal of perishables and liquor, 3rd floor access; correspondence with Lawrie re insurance quote; correspondence with Adriana, FCA re insurance coverage; request order of licenses, begin info in Ascend; Attend at site, walkthrough, repost notice; discussion with Phil (Brother of tenant); request bank accounts;	1.00	\$290.00	\$290.00
Tues	09/06/2022	Draft Key receipt for Tenant; discussions re 3rd floor access, 2 exits under building code; attend at site with Rocco, lockit re walkthrough, discuss liqueur and perishable disposal, patio, review books and records; correspondence with Tenant re key and key receipt; correspondence to Johnny Mercante re books and records; begin draft budget;	2.50	\$290.00	\$725.00
Wed	09/07/2022	Discussion with TP re utilities, tenant, books and records;	0.20	\$290.00	\$58.00
Thur	09/08/2022	Discussion with Paula re Utilities and Notice and Statement of Receiver; correspondence with Johnny re books and records; attend at site re walkthrough, advise Phil (tenants brother) to remove items blocking offices on 3rd floor; correspondence with Paula re enbridge meeting; finalize budget for TD, discuss same with TP; review Totten Insurance quote;	1.00	\$290.00	\$290.00
Fri	09/09/2022	Attend at site re meeting with Enbridge re 2nd floor gas service; review and issue Notice and Statement of Receiver; review insurance quotes, compare; correspondence with TP and Chad, Lawrie re same; review application record; correspondence to Stephanie Waller, tenant re accessing building other then unit;	2.00	\$290.00	\$580.00
Mon	09/12/2022	Attend at site; walkthrough, follow up on books and records;	0.50	\$290.00	\$145.00
Wed	09/14/2022	Attend at site, walk through, no issues;	0.50	\$290.00	\$145.00
Thur	09/15/2022	Attend at site, walkthrough, meeting with Andrew, Lockit re perishables, alcohol, winterizing, patio furniture and draining freezers;	0.50	\$290.00	\$145.00
Fri	09/16/2022	S. Waller correspondence re eviction notice; follow up with OSB re cert. of appointments;	0.20	\$290.00	\$58.00
Mon	09/19/2022	Attend at site, walkthrough, review Enbridge letter;	0.50	\$290.00	\$145.00
Tues	09/20/2022	Review and approve Lockit clean up quote; prep interested parties list;	0.10	\$290.00	\$29.00
Wed	09/21/2022	Attend at site, walkthrough; f/u books and records; discussion with interested party re restaurant assets;	0.50	\$290.00	\$145.00
Fri	09/23/2022	Attend at site re walkthrough, view arcade consoles; review lawyer letter re Alex Magis, claim on consoles; prep and issue Property Claim to be filled out;	0.50	\$290.00	\$145.00
Mon	09/26/2022	discussion re removal of perishables and alcohol; FCA invoice; attend at site, walkthrough; garbage bins in back;	0.50	\$290.00	\$145.00
Tues	09/27/2022	Various attendance at Site throughout the day re disposal of alcohol, perishables, et al;	1.00	\$290.00	\$290.00
Wed	09/28/2022	Discussion with Andrew re remaining items for removal;	0.10	\$290.00	\$29.00
Thur	09/29/2022	correspondence with Antec re appraisal; correspondence with Stephanie Waller, tenant re meeting for appraisal; attend at site, walkthrough with Andrew, lockit re disposal of perishables and alcohol;	0.50	\$290.00	\$145.00
Fri	09/30/2022	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Tues	10/04/2022	prep FCA insurance cheq req; correspondence re utilities; attend at site, walkthrough; arrange meeting with Colliers re appraisal; correspondence with Tenant re same;	0.50	\$290.00	\$145.00
Wed	10/05/2022	Attend at site; walkthrough, meeting with Antec Appraisals re site visit;	0.50	\$290.00	\$145.00

Filters Used:

- Time Entry Date: 1/01/70 to 3/31/23
- File ID: AAAOUT-R: to AAAOUT-R:
- Time Entry Bill Status: Un-Billed to Un-Billed

Printed on: 4/11/23

Page 2 of 17

File Name (ID): 2580361 Ontario Inc. (AAAOUT-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Evan McCullagh (EMC)					
Thur	10/06/2022	review CRA HST Deemed Trust claim; discussion with Kamila, CRA re close RT1 and Open RT2 account, audit, etc.	0.20	\$290.00	\$58.00
Fri	10/07/2022	attend at site re walkthrough; meeting with Eric, Colliers re updated appraisal; review FCA invoice, prep CHQ REQ;	0.50	\$290.00	\$145.00
Tues	10/11/2022	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Wed	10/12/2022	Attend at site re walkthrough; review Enbridge invoice, prep CHQ REQ	0.50	\$290.00	\$145.00
Fri	10/14/2022	Attend at site re walkthrough; review Lockit Invoices, prep CHQ REQ;	0.50	\$290.00	\$145.00
Mon	10/17/2022	Attend at Site re walkthrough;	0.50	\$290.00	\$145.00
Wed	10/19/2022	Attend at site re walkthrough; discussion with Kelly Avison re meeting;	0.50	\$290.00	\$145.00
Thur	10/20/2022	Attend at site re walkthrough; discussion with Rocco, lockit re snow removal and salting;	0.50	\$290.00	\$145.00
Fri	10/21/2022	Call contractors re snow and salting quotes; correspondence with Frank, CBRE re listing proposal, info request, tour;	0.20	\$290.00	\$58.00
Mon	10/24/2022	Attend at site re walkthrough, meeting with Kelly Avison re listing proposal;	0.50	\$290.00	\$145.00
Tues	10/25/2022	Contact various contractors re snow removal and salting; review Antec & Colliers invoices, pre CHQ REQs;	0.20	\$290.00	\$58.00
Wed	10/26/2022	review Paramount snow removal quote, discuss with TP;	0.10	\$290.00	\$29.00
Thur	10/27/2022	review snow removal quote from paramount;	0.10	\$290.00	\$29.00
Fri	10/28/2022	Discussion with David, Paramount re changes to snow removal agreement; attend at site, meeting with Frank, CBRE re listing proposal; review Enbridge invoice, prep CHQ REQ; correspondence re Alectra Utilities;	1.00	\$290.00	\$290.00
Mon	10/31/2022	Attend at site re walkthrough; review information and provide info re CBRE and Avison request; discuss same with TP; correspondence re Alectra Utilities;	0.50	\$290.00	\$145.00
Tues	11/01/2022	review FCA November invoice, prep CHQ REQ	0.10	\$290.00	\$29.00
Wed	11/02/2022	discussion with David, Paramount landscaping, confirmation of agreement, on route, invoicing; review Alectra letters; attend at site re walkthrough	0.50	\$290.00	\$145.00
Fri	11/04/2022	Attend at site re walkthrough; review Avison proposal;	0.50	\$290.00	\$145.00
Mon	11/07/2022	Attend at site re walkthrough; review Alectra invoice (Water), prep CHQ REQ;	0.50	\$290.00	\$145.00
Tues	11/08/2022	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Wed	11/09/2022	Attend at site re walk through;	0.50	\$290.00	\$145.00
Thur	11/10/2022	Discussion with Ariebe, from CRA re o/s returns (January 2020 to September 1, 2022);	0.20	\$290.00	\$58.00
Fri	11/11/2022	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Mon	11/14/2022	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Tues	11/15/2022	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Wed	11/16/2022	Attend at site re walkthrough; sweep stairs; discussion with Stephanie Waller re vacating update and rear stairwell (use internal stairs if bad); draft CHQ REQ re Stephanie Waller;	0.50	\$290.00	\$145.00
Thur	11/17/2022	Attend at site re walkthrough; correspondence re utilities;	0.50	\$290.00	\$145.00
Fri	11/18/2022	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Mon	11/21/2022	Time from the weekend: correspondence 3rd floor tenant re heating issue; arrange repair company; attend at site re meeting with HAMCO re heating issue; Monday November 21st: attend at site re walkthrough;	1.50	\$290.00	\$435.00
Tues	11/22/2022	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Wed	11/23/2022	Attend at site re walkthrough; correspondence with Tenant re vacating date, furnace;	0.50	\$290.00	\$145.00
Thur	11/24/2022	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Fri	11/25/2022	Attend at site re walkthrough; f/u with Tenant re vacating date; review GL; review HAMCO receipt, f/u re furnace quote;	0.50	\$290.00	\$145.00

Filters Used:

- Time Entry Date: 1/01/70 to 3/31/23
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File Name (ID): 2580361 Ontario Inc. (AAAOUT-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Evan McCullagh (EMC)					
Tues	11/29/2022	Attend at site re walkthrough; correspondence with tenant re moving; review Alectra invoices, prep CHQ REQs;	0.50	\$290.00	\$145.00
Wed	11/30/2022	attend at site; walk through with Stephanie Waller, 3rd floor tenant, vacating and meet with locksmith to change locks;	0.50	\$290.00	\$145.00
Thur	12/01/2022	Attend at Site re walkthrough; review and update insurance re vacancy;	0.50	\$290.00	\$145.00
Fri	12/02/2022	Attend at site re meeting with Kelly Avison, sales process; review utility bills, interested parties list;	0.50	\$290.00	\$145.00
Tues	12/06/2022	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Wed	12/07/2022	Attend at site re walkthrough; meeting with Shipton's re 2nd opinion on furnace; review Shipton's quote, review HAMCO's quote, arrange furnace repair with Shipton;	1.00	\$290.00	\$290.00
Thur	12/08/2022	attend at site re walkthrough;	0.50	\$290.00	\$145.00
Fri	12/09/2022	Attend at site re walkthrough through	0.50	\$290.00	\$145.00
Mon	12/12/2022	Attend at site re walkthrough, furnace repair;	0.50	\$290.00	\$145.00
Tues	12/13/2022	Attend at site re walkthrough, discussion with Shipton re furnace repair;	0.50	\$290.00	\$145.00
Wed	12/14/2022	Attend at site re walkthrough, meeting with Shipton's re furnace repair;	1.00	\$290.00	\$290.00
Fri	12/16/2022	Attend at site re walkthrough; Leak on 3rd floor, discuss with TP; correspondence with Kelly, Avison Young re leak and tours;	0.50	\$290.00	\$145.00
Mon	12/19/2022	Review Paramount Landscaping invoice, prep CHQ REQ; attend at site re walkthrough; discussion with Rocco, 3rd floor leak;	0.50	\$290.00	\$145.00
Wed	12/21/2022	Attend at site re walkthrough; meeting with Andrew, Lock it re 3rd floor leak; 3rd floor toilet shut off; advise Avison Young; update TP;	0.50	\$290.00	\$145.00
Wed	12/28/2022	Attend at site re walkthrough; review enbridge and alectra invoices;	0.50	\$290.00	\$145.00
Thur	12/29/2022	Attend at site re walkthrough; discussion with kelly avison re sales update; review and prep CHQ REQs re utilities and insurance;	0.50	\$290.00	\$145.00
Fri	12/30/2022	Attend at site re walkthrough	0.50	\$290.00	\$145.00
Tues	01/03/2023	Attend at site re walkthrough; review sales progress report; review enbridge correspondence re gas meter; review FCA invoice, discuss same with TP; correspondence to FCA re insurance increase; correspondence to Lawrie group re insurance quote; attend at site re review potential leak	0.75	\$290.00	\$217.50
Wed	01/04/2023	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Thur	01/05/2023	Attend at site re walk through; discussion with Chad, Lawrie Group re insurance quote;	0.50	\$290.00	\$145.00
Fri	01/06/2023	attend at site re walkthrough;	0.50	\$290.00	\$145.00
Mon	01/09/2023	Meeting with Mike, Centimark re roof leak; walkthrough site, update TP: review and approve quote to fix fence door;	0.50	\$290.00	\$145.00
Tues	01/10/2023	Attend at site re walkthrough; review Globe and Mail Ad;	0.50	\$290.00	\$145.00
Wed	01/11/2023	correspondence with Chad, Lawrie Group re insurance quote, review insurance quote, review FCA invoice; correspondence with FCA; discuss insurance with TP; attend at site re walkthrough;	0.50	\$290.00	\$145.00
Thur	01/12/2023	Attend at site re walkthrough; correspondence with Kelly, Avison; review Globe and Mail Ad; conference call with John Mercante re sales process, funds in bank, prep memo to file; review centimark proposal re roof investigation and repair;	1.00	\$290.00	\$290.00
Fri	01/13/2023	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Mon	01/16/2023	Attend at site re walkthrough; review paramount landscaping invoice, prep CHQ REQ;	0.50	\$290.00	\$145.00
Tues	01/17/2023	Attend at site re walkthrough; review enbridge invoice, draft CHQ REQ; correspondence re insurance quote;	0.50	\$290.00	\$145.00
Wed	01/18/2023	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Thur	01/19/2023	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Fri	01/20/2023	attend at site re walkthrough;	0.50	\$290.00	\$145.00
Mon	01/23/2023	Attend at site re walkthrough; review utilities;	0.50	\$290.00	\$145.00

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Day	Date	Memo	B-Hrs	B-Rate	Amount
Evan McCullagh (EMC)					
Tues	01/24/2023	Attend at site re walkthrough, clean up front area, gas meter replacement;	1.50	\$290.00	\$435.00
Wed	01/25/2023	Attend at site re walkthrough.	0.50	\$290.00	\$145.00
Thur	01/26/2023	Attend at site re walkthrough; review alectra utility invoices prep CHQ REQ;	0.75	\$290.00	\$217.50
Fri	01/27/2023	Review lockit invoice, prep CHQ REQ; attend at site re walkthrough;	0.50	\$290.00	\$145.00
Mon	01/30/2023	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Tues	01/31/2023	Attend at site re walkthrough	0.50	\$290.00	\$145.00
Wed	02/01/2023	Attend at site re walkthrough; meeting with Andrew re winterization, water shut off; review FCA invoice, prep CHQ REQ;	0.75	\$290.00	\$217.50
Thur	02/02/2023	Attend at site re walkthrough	0.50	\$290.00	\$145.00
Fri	02/03/2023	Attend at site re walkthrough; discuss 3rd party items on site;	0.50	\$290.00	\$145.00
Mon	02/06/2023	Attend at site re walkthrough, 3rd party items;	0.50	\$290.00	\$145.00
Tues	02/07/2023	Attend at site re walkthrough, hard drive and POS systems; discussion with TP re wire and key receipt for purchaser; draft key receipt;	0.50	\$290.00	\$145.00
Wed	02/08/2023	Attend at site re walkthrough; correspondence with purchaser re keys; draft deposit req; begin drafting first report to court;	2.50	\$290.00	\$725.00
Thur	02/09/2023	Continue drafting first report to court; discussion with Purchaser re site visits; correspondence to City of Hamilton re property tax statement; attend at site re walkthrough; review property tax statement;	3.00	\$290.00	\$870.00
Fri	02/10/2023	continue drafting report to court; attend at site re walkthrough;	1.00	\$290.00	\$290.00
Mon	02/13/2023	Attend at site re walkthrough; correspondence with purchaser re Wednesday site visit; continue drafting report to court;	1.50	\$290.00	\$435.00
Tues	02/14/2023	Attend at site re walkthrough; discussion with Purchaser and correspondence re marketing; review draft motion material, continue draft report to court;	1.50	\$290.00	\$435.00
Wed	02/15/2023	Attend at site re walkthrough; continue report to court, draft interim SRD;	1.00	\$290.00	\$290.00
Thur	02/16/2023	Attend at site re walkthrough; review Paramount invoice, prep chq req; review Enbridge invoices, prep CHQ REQ;	0.50	\$290.00	\$145.00
Fri	02/17/2023	Attend at site re walkthrough; review utilities; continue review and draft of report to court; discussion with Kelly, Avison re marketing;	1.00	\$290.00	\$290.00
Tues	02/21/2023	Attend at site re walkthrough; review marketing report from Avison Young; update report to court;	1.00	\$290.00	\$290.00
Wed	02/22/2023	Attend at site re walk through; update report to court, review appendices;	1.00	\$290.00	\$290.00
Thur	02/23/2023	Review Paramount correspondence re salting, snow removal, discuss same with TP; review GLs and prepare interim report and SRD;	0.50	\$290.00	\$145.00
Mon	02/27/2023	Attend at site re walkthrough; alarm sound; discuss with TP;	0.50	\$290.00	\$145.00
Tues	02/28/2023	Attend at site re walkthrough, meeting with Paul re alarm; review Alectra invoices, prep CHQ REQ;	0.50	\$290.00	\$145.00
Wed	03/01/2023	Review Lockit invoice, prep CHQ REQ; attend at site re walkthrough;	0.50	\$290.00	\$145.00
Thur	03/02/2023	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Fri	03/03/2023	Attend at site re walkthrough; correspondence with purchaser re attendance at sites;	0.50	\$290.00	\$145.00
Mon	03/06/2023	Attend at Site re walkthrough; correspondence with FCA re insurance;	0.50	\$290.00	\$145.00
Tues	03/07/2023	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Wed	03/08/2023	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Thur	03/09/2023	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Fri	03/10/2023	Attend at site re walkthrough; review GL; review projected budget;	0.50	\$290.00	\$145.00
Mon	03/13/2023	Attend at Site re walkthrough;	0.50	\$290.00	\$145.00
Tues	03/14/2023	attend at site re walkthrough;	0.50	\$290.00	\$145.00
Wed	03/15/2023	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Thur	03/16/2023	Review Paramount Invoice, prep CHQ REQ; review Enbridge invoices and prep CHQ REQ; attend at site re walkthrough;	0.50	\$290.00	\$145.00

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Day	Date	Memo	B-Hrs	B-Rate	Amount
Evan McCullagh (EMC)					
Fri	03/17/2023	Attend at site re walkthrough	0.50	\$290.00	\$145.00
Mon	03/20/2023	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Tues	03/21/2023	Attend at site re walkthrough; review appendices, draft report; prepare interim SRD for report; review GL; prepare draft fee affidavit;	1.00	\$290.00	\$290.00
Wed	03/22/2023	Attend at site re walkthrough; review appendices, redactions;	0.50	\$290.00	\$145.00
Thur	03/23/2023	Attend at site re walkthrough; review Alectra invoices, prep CHQ REQs; review appendices	0.50	\$290.00	\$145.00
Fri	03/24/2023	Attend at site re walkthrough; correspondence with Purchaser;	0.50	\$290.00	\$145.00
Mon	03/27/2023	Attend at site re walkthrough; review lawyer's fee affidavit;	0.50	\$290.00	\$145.00
Tues	03/28/2023	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Wed	03/29/2023	Attend at site re walkthrough; review Lawyer invoices;	0.50	\$290.00	\$145.00
Thur	03/30/2023	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Fri	03/31/2023	Attend at site re walkthrough;	0.50	\$290.00	\$145.00
Evan McCullagh (EMC)			81.95		\$23,765.50
Eileen Sturge (EST)					
Fri	09/02/2022	Order and install license; cheque requisition	0.20	\$250.00	\$50.00
Wed	03/22/2023	Admin on file	0.50	\$250.00	\$125.00
Eileen Sturge (EST)			0.70		\$175.00
Gillian Goldblatt (GGO)					
Tues	10/04/2022	review and approve disbursement.	0.10	\$375.00	\$37.50
Wed	10/12/2022	review and approve disbursement.	0.10	\$375.00	\$37.50
Tues	11/01/2022	review and approve disbursement.	0.10	\$375.00	\$37.50
Wed	11/02/2022	Review and approve bank reconciliation.	0.10	\$375.00	\$37.50
Fri	11/18/2022	review and approve disbursement.	0.10	\$375.00	\$37.50
Thur	12/01/2022	review and approve bank reconciliation.	0.10	\$375.00	\$37.50
Thur	12/01/2022	review and approve disbursements.	0.30	\$375.00	\$112.50
Thur	12/08/2022	review and approve disbursement.	0.10	\$375.00	\$37.50
Fri	01/13/2023	review and approve bank reconciliation.	0.10	\$375.00	\$37.50
Fri	01/20/2023	review and approve disbursements.	0.20	\$375.00	\$75.00
Fri	01/27/2023	review and approve disbursement.	0.10	\$375.00	\$37.50
Wed	02/01/2023	review and approve bank reconciliation.	0.10	\$375.00	\$37.50
Tues	02/07/2023	review and approve disbursement.	0.10	\$375.00	\$37.50
Fri	02/17/2023	review and approve disbursement.	0.10	\$375.00	\$37.50
Tues	02/28/2023	review and approve disbursements.	0.20	\$375.00	\$75.00
Tues	03/07/2023	review and approve disbursement.	0.10	\$375.00	\$37.50
Thur	03/09/2023	review and approve bank reconciliation.	0.10	\$375.00	\$37.50
Fri	03/10/2023	review and approve disbursement.	0.10	\$375.00	\$37.50
Gillian Goldblatt (GGO)			2.20		\$825.00
Haran Sivanathan (HSI)					
Mon	10/31/2022	General	0.60	\$175.00	\$105.00
Mon	11/14/2022	Cheques preparation	0.60	\$175.00	\$105.00
Mon	11/21/2022	Cheques preparation/wires/EFT	0.30	\$175.00	\$52.50
Fri	11/25/2022	General	0.20	\$175.00	\$35.00
Thur	12/01/2022	EFT's payments	0.70	\$175.00	\$122.50
Thur	01/26/2023	EFT payments	0.60	\$175.00	\$105.00
Thur	02/16/2023	EFTs payment	0.50	\$175.00	\$87.50
Tues	02/28/2023	EFT's and wire payments	0.90	\$175.00	\$157.50
Wed	03/08/2023	cheques	0.30	\$175.00	\$52.50

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Day	Date	Memo	B-Hrs	B-Rate	Amount
Haran Sivanathan (HSI)			4.70		\$822.50
Inga Friptuleac (IFR)					
Tues	10/11/2022	Issue cheques	0.20	\$150.00	\$30.00
Thur	11/03/2022	Issue chqs	0.50	\$150.00	\$75.00
Thur	12/15/2022	Issue cheques	0.20	\$150.00	\$30.00
Thur	12/29/2022	Issue chq	0.10	\$150.00	\$15.00
Thur	01/26/2023	Issue cheques, Postings	0.50	\$150.00	\$75.00
Mon	02/13/2023	Deposit, Issue chqs	0.30	\$150.00	\$45.00
Inga Friptuleac (IFR)			1.80		\$270.00
Mukul Manchanda (MMA)					
Mon	08/22/2022	Time spent previously but not recorded including review of application record, receivership order, ancillary order, forbearance agreement and multiple calls with counsel and TD.	3.40	\$450.00	\$1,530.00
Thur	08/25/2022	Review of email exchanges between Chris and T. Hogan. Email exchanges with S. Venton regarding the file.	0.20	\$450.00	\$90.00
Wed	08/31/2022	Email exchanges with T. Hogan regarding the payout. Instructed S. Downey and P. Amaral to prepare to take possession on September 1st. Email exchanges and telephone discussion with T. Pringle regarding same. Email exchanges with J. Lamothe regarding obtaining contact information of J. Mercante. Review of an email from T. Pringle to J. Mercante. Receipt and review of door notice and tenant acknowledgement form. Review of insurance questionnaire.	1.40	\$450.00	\$630.00
Thur	09/01/2022	Multiple telephone discussions with P. Amaral and T. Pringle regarding taking possession of the property. Discussion regarding the tenant and eviction of same. Receipt and review of an email from T. Hogan to C. Argiropoulos advising of the effectiveness of the Receivership order and moving to Court to obtain an endorsement to that effect. Receipt and review of an email from C. Argiropoulos. Receipt and reviewed letter to utility companies. Review of email exchanges between M. Harris and T. Hogan.	1.80	\$450.00	\$810.00
Fri	09/02/2022	Receipt and review of email exchanges between E. McCullagh and R. Tuzi regarding taking possession. Review of email exchanges regarding admin and operating issues. Email exchanges with S. Venton regarding registration of order on title. Instructions to P. Amaral. Receipt and review of the signed acknowledgement and direction to register the order on title.	1.30	\$450.00	\$585.00
Wed	09/07/2022	Review of email exchanges regarding set up of the utility accounts. Receipt, review, edit and sign the notice and statement of the Receiver.	0.50	\$450.00	\$225.00
Thur	09/08/2022	Receipt and review of an email from E. McCullagh containing the projected budget to maintain the property and run the sales process. Receipt and review of an email from T. Pringle regarding insurance on the property. Receipt and review of the insurance quotation from Totten Group. Discussion with T. Pringle regarding quotations from FCA and Totten Group. Receipt and review of an email from T. Masterson containing the affidavit of J. Lamothe.	1.30	\$450.00	\$585.00
Fri	09/09/2022	Amended the Notice and Statement of the Receiver and instructed P. Amaral to send the amended version to the creditors. Receipt and review of an email from P. Amaral regarding Olympia Trust. Instructed her to send the Notice and Statement of the Receiver to them along with the Receivership Order.	0.60	\$450.00	\$270.00
Tues	09/13/2022	Discussion with staff regarding funding requirement and obtaining appraisal and dealing with operational issues.	0.40	\$450.00	\$180.00

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Day	Date	Memo	B-Hrs	B-Rate	Amount
Mukul Manchanda (MMA)					
Wed	09/14/2022	Receipt and review of an email from J. Lamothe regarding the Receiver's borrowings and appraisal of the building. Sent an email to J. Lamothe providing the requested information. Prepare the Receiver's Certificate. Receipt and review of motion record of TD.	1.10	\$450.00	\$495.00
Mon	09/19/2022	General	0.20	\$450.00	\$90.00
Tues	09/20/2022	Review of email exchanges between M. Harris and S. Venton regarding the property. Review of email exchanges between T. Pringle and M. Harris.	0.30	\$450.00	\$135.00
Thur	09/22/2022	Email exchanges and discussion with E. McCullagh regarding operational issues. Email exchanges regarding advance from TD.	0.80	\$450.00	\$360.00
Fri	09/23/2022	Lengthy telephone discussion with an interested party regarding the receivership and the sale process. Dealt with operational issues.	1.30	\$450.00	\$585.00
Mon	09/26/2022	Email exchanges with E. McCullagh regarding the status of advance of funds. Telephone discussion with P. Hanke and J. Lamothe regarding deposit of a large sum in the debtor's bank account. Receipt and review of email from J. Lamothe providing a copy of the deposit.	0.20	\$450.00	\$90.00
Tues	09/27/2022	Receipt and review of an email from J. Lamothe containing a previous appraisal of the property. Forwarded same to T. Pringle. Receipt and review of quotations for appraisals. Forwarded same to P. Hanke and J. Lamothe.	0.40	\$450.00	\$180.00
Wed	09/28/2022	Review of email exchanges between T. Pringle and S. Venton regarding drafting an agreement for the tenant to vacate the premises. Discussion with T. Pringle regarding same. Email exchanges with J. Lamothe regarding the appraisals and funding. Receipt and review of an email from J. Lamothe providing a copy of the cheque that was returned. Receipt and review of the agreement to vacate the premises from S. Venton.	0.60	\$450.00	\$270.00
Mon	10/03/2022	Review of email exchanges between S. Venton and T. Pringle regarding the settlement with the tenant. Telephone discussion with J. Lamothe regarding same. Email exchanges with T. Pringle regarding obtaining proposals from brokers. Email exchanges with E. McCullagh regarding funding requirements.	0.50	\$450.00	\$225.00
Tues	10/04/2022	Receipt and review of an email from E. McCullagh containing cheq requisitions and deposit receipts. Provided approvals for same. Sent an email to P. Hanke and J. Lamothe providing an update with respect to the eviction of the tenant, status of appraisals and listing proposals. Receipt and review of an email from J. DiFruscia containing the order of Justice Parayeski confirming the effective date of the Receivership Order. Receipt, review and approve disbursements.	0.90	\$450.00	\$405.00
Thur	10/06/2022	Receipt and review of an email containing the CRA HST deemed trust.	0.30	\$450.00	\$135.00
Wed	10/12/2022	Receipt, review and approve payables.	0.20	\$450.00	\$90.00
Fri	10/14/2022	Receipt, review and approve payables.	0.20	\$450.00	\$90.00
Mon	10/17/2022	Discussion with T. Pringle regarding obtaining listing proposals. Lengthy call from a local realtor regarding the property.	0.90	\$450.00	\$405.00
Tues	10/18/2022	Email exchanges and telephone discussion with J. Lamothe regarding conducting an appraisal of the equipment. Email exchanges with T. Pringle regarding commissioning the appraisal for the equipment on site.	0.30	\$450.00	\$135.00
Wed	10/19/2022	Receipt and review of draft appraisal from Colliers. Discussion with T. Pringle regarding same. Email exchanges with J. Lamothe regarding J. Mercante. Telephone call with P. Hanke and J. Lamothe.	0.80	\$450.00	\$360.00

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Mukul Manchanda (MMA)					
Mon	10/24/2022	Email exchanges with J. Lamothe regarding J. Mercante attendance at a branch and attempt to withdraw money from the company's bank account. Telephone discussion with J. Lamothe and P. Hanke regarding same.	0.60	\$450.00	\$270.00
Wed	10/26/2022	Receipt and review of the appraisal report from Antec.	0.50	\$450.00	\$225.00
Thur	10/27/2022	Receipt, review and approve the snow removal quote.	0.20	\$450.00	\$90.00
Fri	10/28/2022	Receipt and review of the Canam Appraisal. Review of an email from M. Woods regarding registration of order on title. Review of email exchanges regarding issues with the utilities.	0.50	\$450.00	\$225.00
Mon	10/31/2022	Review of email exchanges with CBRE and Avison Young. Receipt and review of the HST deemed trust claim.	0.20	\$450.00	\$90.00
Tues	11/01/2022	Receipt, review and approve payables.	0.20	\$450.00	\$90.00
Wed	11/02/2022	Review of the file with E. McCullagh and P. Amaral. Discussion regarding utilities and transfer of same to the Receiver. Lengthy call with a potential purchaser. Dealt with ancillary matters.	1.30	\$450.00	\$585.00
Thur	11/03/2022	Receipt and review of the CBRE listing proposal. Telephone call from CRA.	0.60	\$450.00	\$270.00
Fri	11/04/2022	Receipt and review of an email containing the Avison Young listing proposal. Discussion with P. Hanke regarding the two listing proposals. Receipt, review and approve payables.	1.40	\$450.00	\$630.00
Mon	11/07/2022	Receipt, review and approve payables. Receipt and review of the summary of two proposals received from CBRE and Avison and Young. Discussion with T. Pringle regarding same. Agreed that we will ask both parties to reconsider commission being charged.	0.90	\$450.00	\$405.00
Tues	11/08/2022	Email exchanges with T. Hogan regarding update on the file.	0.20	\$450.00	\$90.00
Wed	11/09/2022	Telephone call from an interested party. Discussion regarding receivership and the process to be followed. Instructed S. Downey to update the spreadsheet with interested parties.	0.70	\$450.00	\$315.00
Thur	11/10/2022	Email exchanges with T. Pringle regarding the listing proposals. Receipt and review of the revised summary. Emailed same to P. Hanke and J. Lamothe.	0.50	\$450.00	\$225.00
Mon	11/14/2022	Review of the two listing proposals from CBRE and Avison Young. Email exchanges with T. Pringle regarding the listing price. Sent an email to P. Hanke and J. Lamothe containing the summary of the two proposals and provided a recommendation for listing the property. Telephone call with P. Hanke regarding listing the building. Discussion with T. Pringle regarding same.	1.20	\$450.00	\$540.00
Mon	11/21/2022	Telephone call with T. Pringle regarding listing of the property and eviction of the tenant.	0.40	\$450.00	\$180.00
Fri	11/25/2022	Receipt, review and approve payable.	0.20	\$450.00	\$90.00
Mon	11/28/2022	Preliminary review of the draft agreement of purchase and sale.	0.50	\$450.00	\$225.00
Tues	11/29/2022	Review of the APS provided by Foglers. Lengthy call with T. Pringle regarding same. Sent an email to T. Pringle containing a template APS used on previous files.	1.00	\$450.00	\$450.00
Thur	12/01/2022	Receipt, review and approve payables. Receipt, review and approve the sale brochure provided by Avison Young.	0.60	\$450.00	\$270.00
Wed	12/07/2022	Email exchanges and telephone discussion regarding the status of the listing of the property.	0.50	\$450.00	\$225.00
Thur	12/08/2022	Email exchanges with T. Pringle and K. AVison regarding listing the property.	0.20	\$450.00	\$90.00
Mon	12/12/2022	Receipt and review of the listing from K. Avison. Telephone call with P. Hanke regarding the sale process and monies on hand in the bank account.	0.50	\$450.00	\$225.00
Fri	12/16/2022	Receipt and review of the update on file from T. Pringle and K. Avison.	0.30	\$450.00	\$135.00

Filters Used:

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Day	Date	Memo	B-Hrs	B-Rate	Amount
Mukul Manchanda (MMA)					
Tues	12/20/2022	Receipt, review and approve payables.	0.20	\$450.00	\$90.00
Tues	12/20/2022	Receipt, review and approve payables.	0.10	\$450.00	\$45.00
Wed	12/28/2022	Receipt, review and approve payables.	0.20	\$450.00	\$90.00
Thur	12/29/2022	Email exchanges with J. Lamothe regarding update on the file. Telephone conversation with P. Hanke regarding same. Receipt and review of an email from K. Avison providing update on the sales efforts. Forwarded same to J. Lamothe.	0.60	\$450.00	\$270.00
Tues	01/03/2023	Receipt and review of the progress report from the broker. Lengthy telephone discussion with K. Avison regarding the interest in the property. Receipt, review and approve payables.	1.20	\$450.00	\$540.00
Fri	01/06/2023	Receipt, review and approve payables.	0.20	\$450.00	\$90.00
Tues	01/10/2023	Telephone call from an interested party.	0.60	\$450.00	\$270.00
Wed	01/11/2023	Telephone call and email exchanges with J. Lamothe regarding the transfer of funds available in the account.	0.80	\$450.00	\$360.00
Thur	01/12/2023	Email exchanges with T. Pringle regarding J. Marcantile's response with respect to the funds deposited after the date of the receivership.	0.30	\$450.00	\$135.00
Wed	01/18/2023	Receipt and review of emails from K. Avison regarding offers received to date. Discussion regarding same with T. Pringle.	0.30	\$450.00	\$135.00
Thur	01/19/2023	Review of email exchanges regarding potential offers.	0.20	\$450.00	\$90.00
Fri	01/20/2023	Receipt, review and approve payables. Receipt and review of an email containing an offer summary and copies of all offers submitted by potential purchasers. Discussion with T. Pringle regarding same. Agreed that we will go back to the highest bidders and asked them to provide the best offer.	1.30	\$450.00	\$585.00
Mon	01/23/2023	Telephone call with P. Hanke regarding the offers and update on the file.	0.30	\$450.00	\$135.00
Wed	01/25/2023	Receipt and review of the final bids.	0.50	\$450.00	\$225.00
Fri	01/27/2023	Call with the agents regarding the offers. Sent an email to P. Hanke recommending that we go back to the highest offer with a counter offer.	0.80	\$450.00	\$360.00
Wed	02/01/2023	Email exchanges with T. Pringle and K. Avison regarding the offers.	0.20	\$450.00	\$90.00
Thur	02/02/2023	Receipt and review of an email from T. Pringle containing the counter offer from Muse. Conference call with P. Hanke and J. Lamothe regarding same. Instructed the agent to move forward with the counter offer as presented.	1.00	\$450.00	\$450.00
Mon	02/06/2023	Receipt and review of the signed APS.	0.30	\$450.00	\$135.00
Tues	02/07/2023	Email exchanges with E. McCullagh regarding the POS system. Telephone call with the bank regarding return of same. Receipt and review of an email from K. Avison regarding deposit from the purchaser and request for key for the premises.	0.80	\$450.00	\$360.00
Mon	02/13/2023	Email exchanges with T. Pringle regarding the request from the purchaser for marketing the premises for lease.	0.20	\$450.00	\$90.00
Wed	02/15/2023	Review of an email from V. Dare regarding the deposit made in the account and position of J. Mercante regarding same. Telephone discussion with T. Pringle regarding same. Receipt and review of the corporate profile search of 1992654 Ontario Ltd. Email exchanges with T. Pringle regarding the deposit from 1992654 Ontario Ltd.	0.50	\$450.00	\$225.00
Thur	02/16/2023	Drafted a response with respect to the issue of the funds deposited after the date of the receivership and inclusion of same in the report to court. Receipt and review of the draft letter to J. Mercante. Provided comments regarding same. Receipt, review and approve EFTs	1.00	\$450.00	\$450.00
Fri	02/17/2023	Email exchanges with T. Pringle regarding the letter to J. Mercante.	0.20	\$450.00	\$90.00

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Day	Date	Memo	B-Hrs	B-Rate	Amount
Mukul Manchanda (MMA)					
Wed	02/22/2023	Email exchanges with T. Hogan regarding status of the file. Forwarded letter sent to J. Mercante. Review of email exchanges between T. Hogan and C. Argiropoulos. Instructed V. Dare to write to C. Argiropoulos.	0.20	\$450.00	\$90.00
Thur	02/23/2023	Receipt and review of the letter to C. Argiropoulos. Receipt, review and approve 246 report.	0.40	\$450.00	\$180.00
Mon	03/20/2023	Receipt, review and edit the report to court. Review of appendices to the report. Sent an email to T. Pringle containing comments to the report.	2.60	\$450.00	\$1,170.00
Fri	03/24/2023	Receipt, review and approved 4 EFT's for payables.	0.40	\$450.00	\$180.00
Mukul Manchanda (MMA)			48.50		\$21,825.00
Paula Amaral (PAM)					
Wed	08/31/2022	Prepare door notice, tenant letter and acknowledgement in preparation of receivership. Contact Lockit to organize lock change.	1.50	\$290.00	\$435.00
Thur	09/01/2022	Attend premises to assist with taking possession. Open and review mail on site and complete insurance questionnaire. Contact utility companies to notify of receivership. Prepare letter to notify utilities of receivership and request new accounts and submit for approval.	6.00	\$290.00	\$1,740.00
Fri	09/02/2022	Finalize letters to utilities and forward to utility companies.	1.00	\$290.00	\$290.00
Thur	09/08/2022	Contact Enbridge to request appointment to turn on gas. Contact Alectra to confirm new accounts have been set up.	1.00	\$290.00	\$290.00
Fri	09/16/2022	Receive emails from City of Hamilton and other lender. Forward to Evan and save to R drive.	0.20	\$290.00	\$58.00
Mon	10/03/2022	Receive email from party with assets on premises. Forward email to Evan. Receive email with certificate of receiver.	0.10	\$290.00	\$29.00
Tues	10/04/2022	Contact Alectra utilities and Enbridge to follow up on set up of new accounts. Set up new Endbridge account for online services.	0.50	\$290.00	\$145.00
Wed	10/05/2022	Received call from CRA agent regarding RT0002 accounts and trust exams. Email Evan with CRA update. Receive email with Deemed Trust Ledger.	0.20	\$290.00	\$58.00
Mon	10/24/2022	Contact Alectra utilities and follow up on account set up. Receive and review CRA documents regarding RT0001 account.	0.30	\$290.00	\$87.00
Mon	10/31/2022	Contact Alectra and follow up on status of account set up and notice of cancellation.	0.40	\$290.00	\$116.00
Wed	11/02/2022	Receive letters stating accounts are closed and new accounts to be set up. Contact Alectra for details and to get update on status of accounts.	0.30	\$290.00	\$87.00
Tues	12/20/2022	Prepare requisitions for payables and submit for approval.	0.20	\$290.00	\$58.00
Paula Amaral (PAM)			11.70		\$3,393.00
Trevor Pringle (TPR)					

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Day	Date	Memo	B-Hrs	B-Rate	Amount
Trevor Pringle (TPR)					
Thur	09/01/2022	review Receivership Court Order; review endorsement; call Chris Argiropoulos, lawyer; review PurView report re 21 Augusta Street; call/correspond with Johnny Mercante, principal re turning over key; review and make amendments to door notice; review and make amendments to tenant correspondence; review application record; review PPSA search; discussions/correspondence re taking possession procedures; review legal correspondence; attend at premises for the purposes of taking possession of 21 Augusta Street, Hamilton; meeting with locksmith to change front door locks; review books and records; tdw Stephanie Waller, 3rd floor tenant re occupancy; review and sign FCA insurance survey form; correspond/tdw Adriana Cluccio, FCA re arranging automatic insurance coverage; call Scott Venton, lawyer re 3rd floor tenant; review and sign utility letters	4.50	\$450.00	\$2,025.00
Fri	09/02/2022	correspond with Adriana Colucci, FCA re insurance coverage; discussions/correspondence re taking possession procedures, securing 3rd floor, insurance coverage, removing perishable inventory, utilities, banking; correspond with Scott Venton, lawyer re evicting 3rd floor tenant; review FCA outline of insurance coverage and invoice; conference call with Scott Venton & Vern DaRe, lawyers re evicting 3rd floor tenant; review and sign acknowledgement and direction registering order on title	1.40	\$450.00	\$630.00
Tues	09/06/2022	review acknowledgement and direction; discussions/correspondence re taking possession procedures including securing 3rd floor offices, key to 3rd floor tenant, building cleanup, books and records, insurance quote; review and make amendments to key receipt; review Ontario building code re minimum number of exits; review executed key receipt; review Stephanie Waller (3rd floor tenant) correspondence; correspond with Scott Venton, lawyer re evicting 3rd floor tenant; review Weller eviction notice	1.30	\$450.00	\$585.00
Wed	09/07/2022	discussions/correspondence re taking possession procedures including insurance quote, Enbridge activating 2nd floor service, books and records; review operating budget	0.40	\$450.00	\$180.00
Thur	09/08/2022	discussions/correspondence re security check, utility services; review draft 245/246 notice; review draft operating budget; review Enbridge proof of claim; review Totten Group insurance quote	0.50	\$450.00	\$225.00
Fri	09/09/2022	discussions/correspondence re insurance coverage, utilities, WEPPA, 3rd floor tenant; review 245/246 notices; review Burns & Wilcox insurance quote	0.40	\$450.00	\$180.00
Mon	09/12/2022	discussions/correspondence re security check, books & records retrieval	0.10	\$450.00	\$45.00
Mon	09/19/2022	correspondence/discussions re Waller compensation, books & records; correspond with Scott Venton, lawyer re 3rd floor tenant compensation; correspond with Stephanie Waller, 3rd floor tenant	0.50	\$450.00	\$225.00
Tues	09/20/2022	discussions/correspondence re property appraisals, books and records, 3rd floor tenant; review and approve quote to clean-up premises; correspond with Stephanie Waller, 3rd floor tenant; correspond with Matthew Harris, lawyer re sales process	0.60	\$450.00	\$270.00
Fri	09/23/2022	discussions/correspondence re 3rd party property, OSB	0.10	\$450.00	\$45.00
Mon	09/26/2022	discussions/correspondence re taking possession procedures; correspond with Stephanie Waller, 3rd floor tenant re offer; review site inspection photos	0.40	\$450.00	\$180.00

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Trevor Pringle (TPR)					
Tues	09/27/2022	discussions/correspondence re taking possession procedures, appraisals; correspond with Stephanie Waller, 3rd floor tenant re offer; call/correspond with Eric Sutton, Colliers re updated appraisal quote; review Colliers property appraisal; correspond/tdw Kevin Antonides, Antec re appraisal quote; review insurance coverage	0.90	\$450.00	\$405.00
Wed	09/28/2022	correspond with Scott Venton, lawyer; correspond with Stephanie Waller, 3rd floor tenant re offer; correspond with Kevin Antonides, Antec re appraisal; correspond with Eric Sutton, Colliers re appraisal	0.50	\$450.00	\$225.00
Thur	09/29/2022	review, make changes to and sign Waller agreement to vacate premises; correspond with Stephanie Waller re agreement to vacate; correspondence re property appraisals; review, make changes to and execute Colliers appraisal engagement letter; discussions re site clean-up	0.80	\$450.00	\$360.00
Mon	10/03/2022	review executed agreement to vacate; correspond with Stephanie Waller, 3rd floor tenant; correspond with Scott Venton, lawyer; discussions/correspondence re listing brokers	0.40	\$450.00	\$180.00
Tues	10/04/2022	review and approve payment of FCA insurance invoice; review G/L	0.20	\$450.00	\$90.00
Thur	10/06/2022	review CRA HST deemed trust claim; review G/L	0.10	\$450.00	\$45.00
Fri	10/07/2022	review and approve payment of FCA insurance invoice; review G/L	0.10	\$450.00	\$45.00
Mon	10/17/2022	review G/L; correspond with Scott Venton, lawyer re ILA	0.10	\$450.00	\$45.00
Tues	10/18/2022	discussions/correspondence re appraisals, 3rd party property; review accounts payable; review Colliers draft property appraisal; correspond with Eric Sutton, Colliers	0.50	\$450.00	\$225.00
Wed	10/19/2022	correspond/tdw Frank Protomanni, CBRE re listing proposal; call/correspond with Kelly Avison, Avison Young re listing proposal; review Colliers draft property appraisal; review and approve payment of Colliers appraisal invoice	0.60	\$450.00	\$270.00
Thur	10/20/2022	review Fogler, Rubinoff LLP independent legal opinion on TD's security; discussions/correspondence re property tour, maintenance; review Colliers draft property appraisal; review G/L	0.50	\$450.00	\$225.00
Mon	10/24/2022	correspond with Kevin Antonides, Antec re property appraisal; review G/L	0.10	\$450.00	\$45.00
Tues	10/25/2022	discussions/correspondence re property maintenance, CBRE tour; tdw Kevin Antonides, Antec re 21 Augusta valuation; review Antec property appraisal; review and approve payment of Antec invoice; review Colliers draft appraisal; correspond with Eric Sutton, Colliers; review and approve chq rqs	0.90	\$450.00	\$405.00
Wed	10/26/2022	review Antec property appraisal; review Colliers draft appraisal	0.20	\$450.00	\$90.00
Thur	10/27/2022	correspond with Eric Sutton, Colliers; review Paramount Landscaping winter maintenance quote	0.10	\$450.00	\$45.00
Fri	10/28/2022	discussions/correspondence re winter maintenance, CBRE property tour; review G/L; review Antec property appraisal; review Canam equipment appraisal; review registered ancillary order	0.50	\$450.00	\$225.00
Mon	10/31/2022	correspond with Frank Protomanni, CBRE re listing proposal; correspond/tdw Kelly Avison, Avison Young re listing proposal	0.20	\$450.00	\$90.00
Thur	11/03/2022	review CBRE listing proposal; review G/L	0.20	\$450.00	\$90.00
Fri	11/04/2022	review Avison Young listing proposal; review Colliers property appraisal; review Antec property appraisal; review application record; review parcel register; review CBRE listing proposal; correspond/tdw Frank Protomanni, CBRE; tdw Kelly Avison, Avison Young; review books and records	0.90	\$450.00	\$405.00

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Trevor Pringle (TPR)					
Mon	11/07/2022	review CBRE listing proposal; review Avison Young listing proposal; review G/L; prepare listing proposal summary	0.50	\$450.00	\$225.00
Thur	11/10/2022	correspond with Kelly Avison, Avison Young; update listing proposal summary; tdw Frank Protomanni, CBRE	0.30	\$450.00	\$135.00
Mon	11/14/2022	review G/L; correspond/tdw Kelly Avison, Avison Young re preparation of listing agreement at \$1.995 million; call Frank Protomanni, CBRE	0.40	\$450.00	\$180.00
Wed	11/16/2022	discussions/correspondence re winter maintenance, 3rd floor tenant; review and approve Stephanie Waller's \$5,000 payment to vacate 3rd floor apartment; review and make amendments to Avison Young listing agreement; call/correspond with Scott Venton, lawyer re Avison Young listing agreement	0.90	\$450.00	\$405.00
Thur	11/17/2022	review G/L; correspond with Scott Venton, lawyer re Avison Young listing agreement	0.20	\$450.00	\$90.00
Mon	11/21/2022	correspond with Scott Venton, lawyer re Avison Young listing agreement amendments; discussions/correspondence re 3rd floor furnace repair, winter maintenance; review Fogler Rubinoff schedule A to listing agreement; review general ledger; review, make amendments to and execute Avison Young listing agreement; correspond with Kelly Avison, Avison Young re amendments to listing agreement	1.10	\$450.00	\$495.00
Tues	11/22/2022	correspond/tdw's Kelly Avison, Avison Young re listing agreement amendments; review, make changes to and execute Avison Young listing agreement	0.50	\$450.00	\$225.00
Wed	11/23/2022	correspond with Kelly Avison, Avison Young; discussions/correspondence re furnace repairs, Avison Young key receipt; review fully executed listing agreement	0.40	\$450.00	\$180.00
Fri	11/25/2022	discussions/correspondence re 3rd floor tenant vacating premises, locksmith; review and approve payment of Hamco Heating & Cooling invoice	0.30	\$450.00	\$135.00
Mon	11/28/2022	correspond with Scott Venton, lawyer; review Fogler Rubinoff's draft agreement of purchase and sale; review G/L	0.40	\$450.00	\$180.00
Tues	11/29/2022	review furnace repair quote; discussions/correspondence re draft APS, 3rd floor tenant vacating; review and make amendments to draft agreement of purchase and sale; review Order and Ancillary Order; correspond with Scott Venton & Vern DaRe, Fogler lawyers re draft APS; review and approve payment of Alectra Utilities electricity and water invoices	1.30	\$450.00	\$585.00
Wed	11/30/2022	discussions/correspondence re 3rd floor tenant vacating premises, changing locks; review and make amendments to draft agreement of purchase and sale; correspond with Kelly Avison, Avison Young re APS, bid deadline date; correspond with Vern DaRe, lawyer; review PurView report for 21 Augusta; tdw Gary Gruneir re Comfort Capital 2nd mortgage, sales process; review application record; review parcel register	1.20	\$450.00	\$540.00
Thur	12/01/2022	review and approve payment of FCA insurance invoice; review G/L; review and sign FCA vacancy questionnaire; correspond with Kelly Avison, Avison & Young; review and approve Avison Young sales brochure	0.60	\$450.00	\$270.00
Fri	12/02/2022	review site inspection photos	0.10	\$450.00	\$45.00
Tues	12/06/2022	correspond with Kelly Avison, Avison Young; review G/L; review updated Avison Young sales brochure	0.30	\$450.00	\$135.00
Wed	12/07/2022	review Avison Young sales brochure; review and approve Shipton's chq rq; review and approve furnace repair quote; review and execute MLS data information forms; correspond with Kelly Avison, Avison Young	0.60	\$450.00	\$270.00

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Trevor Pringle (TPR)					
Thur	12/08/2022	correspond with Kelly Avison, Avison Young re MLS; review Antec appraisal; review Colliers appraisal	0.30	\$450.00	\$135.00
Mon	12/12/2022	review MLS listing; review G/L	0.10	\$450.00	\$45.00
Wed	12/14/2022	review and approve payment of Shipton's furnace repair invoice	0.10	\$450.00	\$45.00
Fri	12/16/2022	discussions/correspondence re roof leak, Avison Young property tours	0.10	\$450.00	\$45.00
Mon	12/19/2022	review and approve payment of snow removal invoice; review G/L	0.10	\$450.00	\$45.00
Wed	12/21/2022	discussions/correspondence re building maintenance	0.10	\$450.00	\$45.00
Fri	12/23/2022	review Fogler Rubinoff LLP legal account	0.10	\$450.00	\$45.00
Tues	01/03/2023	correspond with Kelly Avison, Avison Young re sales process update; correspondence/discussions re sales process, property maintenance; review and approve payment of Alectra hydro & water invoices; review and approve payment of FCA December insurance invoice; review and approve payment of Enbridge invoice; review G/L; review Avison Young progress report; review site inspection photos; review FCA January insurance invoice increase	1.20	\$450.00	\$540.00
Thur	01/05/2023	correspondence/discussions re property insurance quote, roof leak; review G/L	0.10	\$450.00	\$45.00
Mon	01/09/2023	discussions/correspondence re property & building repairs	0.10	\$450.00	\$45.00
Tues	01/10/2023	review Globe and Mail property sale ad; review general ledger; review HST accounts	0.30	\$450.00	\$135.00
Wed	01/11/2023	discussions/correspondence re FCA insurance premiums, fence repair; review Burns & Wilcox insurance quote	0.20	\$450.00	\$90.00
Thur	01/12/2023	review Avison Young property tour update; review site inspection photos; correspond/tadw's John Mercante, principal re seized \$254k on deposit with TD; review Globe & Mail sales process ad; review TD Bank correspondence; review Centimark roof repair quote	0.70	\$450.00	\$315.00
Tues	01/17/2023	review and approve payment of snow removal invoice, FCA insurance invoice; review G/L; correspondence re property insurance quotes; review Enbridge 3rd floor gas bill; correspond with Kelly Avison, Avison Young	0.60	\$450.00	\$270.00
Fri	01/20/2023	correspond with Kelly Avison, Avison Young re offers; review Antec appraisal; review Colliers appraisal; review TD wire transfer; review general ledger; review offer summary; review Avison Young listing valuation; review Muse Properties offer; review Joel Easter offer; conference call with Kelly Avison & Graeme White, Avison Young re offers & recommendation; discussions/correspondence re submitting best offers	1.30	\$450.00	\$585.00
Mon	01/23/2023	review Jessica Linkletter offer; review G/L	0.20	\$450.00	\$90.00
Tues	01/24/2023	discussions/correspondence re insurance quote, gas meter replacement; correspond with Kelly Avison, Avison Young	0.10	\$450.00	\$45.00
Wed	01/25/2023	correspond with Kelly Avison, Avison Young; review final offers summary; review Muse properties offer; review Joel Easter offer; review Linkletter offer; conference call with Kelly Avison & Graeme White, Avison Young re offers; discussions/correspondence re property offers	0.90	\$450.00	\$405.00
Thur	01/26/2023	review Avison Young offers summary; review Linkletter APS; review and approve payment of Alectra hydro invoices; review and approve payment of Alectra water invoice; discussions re water usage, offers	0.60	\$450.00	\$270.00

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Trevor Pringle (TPR)					
Fri	01/27/2023	review and approve Lock-it maintenance chq rq; discussions/correspondence re 21 Augusta offer; correspond/tdw Kelly Avison, Avison Young re signing back Muse Properties offer; review, make amendments to and execute Muse properties agreement of purchase and sale	0.90	\$450.00	\$405.00
Wed	02/01/2023	correspond with Kelly Avison, Avison Young re Muse Properties offer; discussions/correspondence re building maintenance; review and approve payment of FCA insurance invoice	0.40	\$450.00	\$180.00
Thur	02/02/2023	correspond/tdw's Kelly Avison, Avison Young re Muse Properties updated offer; review updated Muse Properties agreement of purchase and sale; correspondence re Muse offer; review general ledger; correspond/tdw Scott Venton, lawyer re Muse Properties APS; correspond with Vern DaRe, lawyer re Muse APS	0.90	\$450.00	\$405.00
Fri	02/03/2023	review template APS; review, make amendments to and execute Muse Properties agreement of purchase and sale; correspond with Vern DaRe, Foglers lawyer re Muse APS; correspond/tdw Kelly Avison, Avison Young re Muse APS; review PPSA searches	0.80	\$450.00	\$360.00
Mon	02/06/2023	correspond with Kelly Avison, Avison Young re Muse APS; review G/L; review, make changes to and execute Muse Properties agreement of purchase and sale; correspond with Vern DaRe, Foglers lawyer re Muse APS amendments; discussions/correspondence re chattels, deposit wire transfer	0.90	\$450.00	\$405.00
Tues	02/07/2023	correspond with Kelly Avison, Avison Young re purchaser deposit; discussions/correspondence re chattels, purchaser key receipt & COI; review Muse Properties wire transfer slip; review and make changes to Muse key receipt; review Muse Properties insurance policy	0.80	\$450.00	\$360.00
Wed	02/08/2023	review general ledger; review Muse Properties \$100K deposit; discussions/correspondence re keys for Muse, sale closing date; review Muse Properties agreement of purchase and sale; correspond/tdw Ryan Giles, Muse Properties re end of April closing date; review Fogler Rubinoff legal invoice; call/correspond with Scott Venton, lawyer re Muse APS, Court date for AVO	1.00	\$450.00	\$450.00
Tues	02/14/2023	review G/L; review draft notice of motion; review draft approval & vesting order; review draft order; discussions/correspondence re purchaser request, draft report	0.50	\$450.00	\$225.00
Wed	02/15/2023	review draft notice of motion; review G/L; call/correspond with Vern DaRe, Foglers lawyer re draft notice of motion, TD offset, corporate search; discussions/correspondence re TD offset; review 361 returned cheques; review \$127,125 (x2) cheques received from 1992654 Ontario Ltd.; review 199 corporate profile report	0.90	\$450.00	\$405.00
Thur	02/16/2023	correspond/tdw Vern DaRe, Foglers lawyer re John Mercante letter, 361 cheques, books & records; review and approve payment of snow removal invoice; review 361 & 199 cheque signatures; review application record and TD loan documentation signatures; discussions/correspondence re 199 & 361 cheques, TD bank account; review and approve payment of Enbridge utility invoices; review draft Mercante letter	1.20	\$450.00	\$540.00
Fri	02/17/2023	review draft report to Court; review amended Mercante letter; correspond with Vern DaRe, Foglers lawyer	0.30	\$450.00	\$135.00
Tues	02/21/2023	review Avison Young progress report and offer summaries; correspond with Kelly Avison, Avison Young; review G/L	0.30	\$450.00	\$135.00
Wed	02/22/2023	review and make amendments to draft report to Court; review Court Order; discussions re salting/snow removal; review legal correspondence; correspond with Vern DaRe, Fogler lawyer re Mercante's lawyer	0.60	\$450.00	\$270.00

Filters Used:

- Time Entry Date: 1/01/70 to 3/31/23
- File ID: AAAOUT-R: to AAAOUT-R:
- Time Entry Bill Status: Un-Billed to Un-Billed

Printed on: 4/11/23

Page 16 of 17

File Name (ID): 2580361 Ontario Inc. (AAAOUT-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Trevor Pringle (TPR)					
Thur	02/23/2023	review and approve draft letter to Mercante's lawyer re cash in bank; correspond with Vern DaRe, Fogler lawyer; discussions/correspondence re salting & snow removal at premises; review draft 246(2) notice; review draft interim statement of receipts and disbursements	0.70	\$450.00	\$315.00
Fri	02/24/2023	review and make amendments to draft report to Court; review appendices to report; review Ancillary Order; review Justice Parayeski Order; review property tax statement of account; review interim statement of receipts and disbursements; review TD security opinion; review confidential appraisals to report; review Colliers final appraisal; correspond with Eric Sutton, Colliers re final appraisal; review Antec final appraisal; review MUSE Properties agreement of purchase and sale; review legal correspondence; review cancelled cheques	1.90	\$450.00	\$855.00
Mon	02/27/2023	discussions/correspondence re alarm sounding, property maintenance; correspond with Vern DaRe, Fogler lawyer	0.20	\$450.00	\$90.00
Tues	02/28/2023	review G/L; review and approve payment of Alectra hydro bills; review and approve payment of Alectra water bill	0.30	\$450.00	\$135.00
Wed	03/01/2023	review and approve Lock-it property maintenance cheque requisition	0.10	\$450.00	\$45.00
Thur	03/02/2023	review draft report to court; correspond/tdw Vern DaRe, Fogler lawyer; review, revise and execute Muse Properties authorization & direction	0.50	\$450.00	\$225.00
Fri	03/03/2023	discussions/correspondence re closing date, purchaser due diligence; review and make revisions to draft first report to court; review appendices to first report to court; review Fogler Rubinoff TD security opinion; review title search for 21 Augusta Street; review property tax statement of account; review confidential appendices to first report to court; review Colliers final appraisal; review Antec final appraisal; review Avison Young listing agreement; review CRA HST deemed trust claims; review Receiver Certificate; review Appointment Order; review G/L	1.50	\$450.00	\$675.00
Mon	03/06/2023	correspond with Vern DaRe, Fogler lawyer; discussions/correspondence re property maintenance, FCA insurance coverage; review G/L; review and approve chq rq	0.40	\$450.00	\$180.00
Tues	03/07/2023	review books and records; call/correspond with Vern DaRe, Fogler lawyer; review Fogler correspondence to Mercante's lawyer re deposit funds	0.30	\$450.00	\$135.00
Mon	03/13/2023	correspondence/discussions re Mercante, property maintenance; review G/L	0.20	\$450.00	\$90.00
Thur	03/16/2023	review and approve payment of Union Energy gas invoices for 2nd & 3rd floors; review and approve payment of Paramount snow removal invoice	0.30	\$450.00	\$135.00
Mon	03/20/2023	review draft report to court; correspond with Vern DaRe, Fogler lawyer; review G/L	0.30	\$450.00	\$135.00
Tues	03/21/2023	review draft report to court; review draft statement of receipts and disbursements; review G/L; discussions/correspondence re preparing materials for court	0.40	\$450.00	\$180.00
Wed	03/22/2023	correspond with Vern DaRe, Fogler lawyer; review draft report to court with Fogler revisions; review CRA HST deemed trust claim; correspondence/discussions re draft report to court, appendices; review redacted MUSE APS, Avison Young listing proposal & CBRE listing proposal; review draft fee affidavit	0.90	\$450.00	\$405.00
Thur	03/23/2023	review and approve Alectra hydro & water cheque requisitions; discussions/correspondence re preparing motion material	0.30	\$450.00	\$135.00

Filters Used:

- Time Entry Date: 1/01/70 to 3/31/23
- File ID: AAAOUT-R: to AAAOUT-R:
- Time Entry Bill Status: Un-Billed to Un-Billed

Printed on: 4/11/23

Page 17 of 17

File Name (ID): 2580361 Ontario Inc. (AAAOUT-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Trevor Pringle (TPR)					
Tues	03/28/2023	review Fogler, Rubinoff fee affidavit; correspondence/discussions re property closing, motion material; review general ledger	0.40	\$450.00	\$180.00
Wed	03/29/2023	review Fogler, Rubinoff legal invoices	0.10	\$450.00	\$45.00
Trevor Pringle (TPR)			52.60		\$23,670.00
Total for File ID AAAOUT-R:			204.15		\$74,746.00
Grand Total:			204.15		\$74,746.00

**This is Exhibit “B”
To the Affidavit of Trevor Pringle**

dated April 12, 2023

A handwritten signature in blue ink, appearing to be 'E. McCullagh', is written over a horizontal black line.

**Evan Scott McCullagh, a Commissioner, etc.,
Province of Ontario, for MSI Spengel Inc.
Expires October 6, 2023.**

April 11, 2023

Invoice #: 12486

2580363 Ontario Inc.

Invoice

RE: 2580363 Ontario Inc.

FOR PROFESSIONAL SERVICES RENDERED in the period to and including March 31, 2023, in connection with the Court-appointed receivership proceedings.

	Hours	Hourly Rate	Total
Gillian Goldblatt, CPA, CA, CIRP, LIT	0.60	\$375.00	\$225.00
Mukul Manchanda, CPA, CIRP, LIT	0.40	450.00	180.00
Eileen Sturge	0.70	250.00	175.00
Evan McCullagh	1.90	290.00	551.00
Others	0.40	175.00	70.00
Total Professional fees	4.00	\$300.25	\$1,201.00
HST			156.13
Reimbursable Expenses			
PPSA Search			\$8.00
Total Reimbursable expenses			\$8.00
Total			<u>\$1,365.13</u>

HST Registration #R103478103

(AABOUT-R)

Filters Used:

- Time Entry Date: 1/01/70 to 3/31/23
- File ID: AABOUT-R: to AABOUT-R:
- Time Entry Bill Status: Un-Billed to Un-Billed

Printed on: 4/11/23

Page 1 of 1

File Name (ID): 2580363 Ontario Inc. (AABOUT-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Evan McCullagh (EMC)					
Thur	10/06/2022	Discussion with Wendy, CRA re RT2 account, books and records, source and HST claims et al; correspondence re same;	0.30	\$290.00	\$87.00
Tues	10/18/2022	Discussion with Sia, Canam re equipment appraisal; review property claim, correspondence re missing info;	0.20	\$290.00	\$58.00
Wed	10/26/2022	meeting with Sia, Canam at site re appraisal of kitchen equipment;	1.00	\$290.00	\$290.00
Fri	10/28/2022	Review Canam appraisal re restaurant equipment.	0.20	\$290.00	\$58.00
Mon	10/31/2022	Review CRA HST deemed trust claim;	0.10	\$290.00	\$29.00
Fri	11/04/2022	review canam invoice, prep CHQ REQ	0.10	\$290.00	\$29.00
Evan McCullagh (EMC)			1.90		\$551.00
Eileen Sturge (EST)					
Fri	09/02/2022	Order and install license; cheque requisition	0.20	\$250.00	\$50.00
Tues	03/28/2023	Admin on file	0.50	\$250.00	\$125.00
Eileen Sturge (EST)			0.70		\$175.00
Gillian Goldblatt (GGO)					
Tues	10/11/2022	review and approve bank reconciliation.	0.10	\$375.00	\$37.50
Wed	11/02/2022	Review and approve bank reconciliation.	0.10	\$375.00	\$37.50
Thur	12/01/2022	review and approve bank reconciliation.	0.10	\$375.00	\$37.50
Fri	01/13/2023	review and approve bank reconciliation.	0.10	\$375.00	\$37.50
Wed	02/01/2023	review and approve bank reconciliation.	0.10	\$375.00	\$37.50
Thur	03/09/2023	review and approve bank reconciliation.	0.10	\$375.00	\$37.50
Gillian Goldblatt (GGO)			0.60		\$225.00
Haran Sivanathan (HSI)					
Tues	09/13/2022	open new account	0.40	\$175.00	\$70.00
Haran Sivanathan (HSI)			0.40		\$70.00
Mukul Manchanda (MMA)					
Wed	09/07/2022	Review of email exchanges regarding set up of the utility accounts. Receipt, review, edit and sign the notice and statement of the Receiver.	0.30	\$450.00	\$135.00
Tues	10/11/2022	Receipt, review and approve payables.	0.10	\$450.00	\$45.00
Mukul Manchanda (MMA)			0.40		\$180.00
Total for File ID AABOUT-R:			4.00		\$1,201.00
Grand Total:			4.00		\$1,201.00

APPENDIX "8"

Court File No. CV-22-0078521-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

2580363 ONTARIO INC. AND 2580361 ONTARIO INC.

Respondents

**AFFIDAVIT OF SCOTT R. VENTON
SWORN March 27, 2023**

I, Scott R. Venton, of the City of Toronto, Province of Ontario, Barrister and Solicitor, MAKE OATH AND SAY AS FOLLOWS:

1. I am a lawyer with the law firm of Fogler, Rubinoff LLP ("FR") and have knowledge of the matters hereinafter deposed to.

2. Attached hereto as **Exhibit "A"** is a true copy of the interim account dated December 13, 2022, rendered for the work done from April 7, 2022 to November 30, 2022, by FR to msi Spergel Inc., in its capacity as the Court-appointed receiver, without security, of all of the assets, undertakings and properties of 2580363 Ontario Inc. and 2580361 Ontario Inc. (the "Receiver"), which account sets out the particulars of the work performed by FR with respect to this matter. A courtesy discount of approximately \$2,060.50 was provided in this invoice to msi Spergel Inc.

3. Attached hereto as **Exhibit "B"** is a true copy of the interim account dated March 23, 2023, rendered for the work done from January 11, 2023 to March 23, 2023 by FR to the

Receiver, which account sets out the particulars of the work performed by ER with respect to this matter.

4. The total of the fees, disbursements and applicable taxes from April 7, 2022 to March 23, 2023 is the sum of \$39,648.70.

5. The said accounts by ER to the Receiver are summarized as follows:

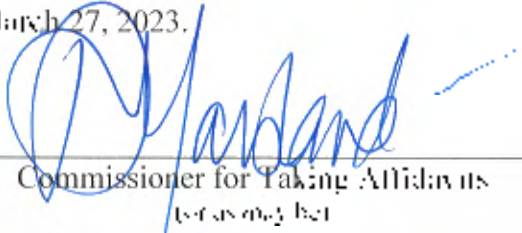
Date	Fees	Disbursements	HST	Total
December 13, 2022	\$13,200.00	\$428.30	\$1,754.44	\$15,382.74
March 23, 2023	\$21,413.00	\$61.30	\$2,791.66	\$24,265.96
TOTAL	\$34,613.00	\$489.60	\$4,546.10	\$39,648.70

6. The following are the billing rates of the lawyers who have worked upon the matter together with their year of call.

Timekeeper	Hourly Rate	Year of Call
Scott R. Venton	\$625.00 (2022) \$650.00 (2023)	2000
Vern W. Dale	\$625.00 (2022) \$640.00 (2023)	1991
Amanda Carew	\$485.00 (2022) \$500.00 (2023)	2005 (Nova Scotia) 2016 (Ontario)

7. The hourly billing rates applied are ER's normal hourly rates for this client.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario on March 27, 2023.



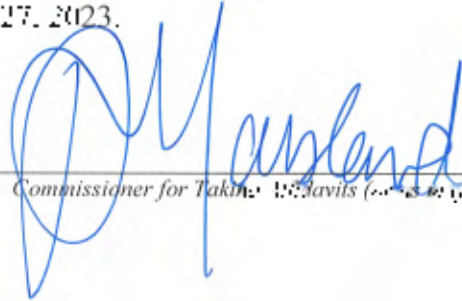
Commissioner for Taking Affidavits
Toronto

ANDREA M. MARSLAND



SCOTT R. VENTON

This is Exhibit "A" referred to in the Affidavit of Scott R. Ventor sworn March 27, 2023.

A handwritten signature in blue ink, appearing to read "M. Casland", is written over a horizontal line.

Commissioner for Taking Affidavits (C.A. 1, 10)

Invoice Num: 22217418

December 13, 2022

msi Spengel Inc.
505 Consumers Road, Suite 200
North York ON M2J 4V8

Attention: Philip Gennis
Licensed Insolvency Trustee

IN ACCOUNT WITH
Fogler, Rubinoff LLP
77 King Street West, Suite 3000
10 Centre North Tower
P.O. Box 95
Toronto, ON
M5K 1G8
Telephone: 416-864-9700
Fax: 416-941-8852
www.foglers.com



Our File: M5052 / 222268
Receivership of 2580361 Ontario Inc. and 2580363 Ontario Inc.

FOR PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter from April 7, 2022 to November 30, 2022, including:

<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hrs</u>	<u>Fees</u>
Apr-07-22	SRV	Review email from Tim Hogan attaching draft order and providing anticipated return date; Review email from Mukul Manchanda regarding borrowing needs.	0.10	54.06
Apr-11-22	SRV	Review email from Lindsay Ferguson, at Harrison Pensa, attaching the Application Record returnable April 27 and review same; Draft and review emails with Tim Hogan regarding process in Hamilton and next steps.	0.30	108.12
Apr-14-22	SRV	Review email from Lindsay Ferguson attaching Factum.	0.10	54.06
Apr-20-22	SRV	Review email from Dickenson Wright attaching Notice of Appearance on behalf of Comfort Capital.	0.10	54.06
May-17-22	SRV	Review email re: instructions to assistant re: new dates for hearing and diarizing same.	0.10	54.06
May-17-22	SRV	Review Supplementary Affidavit of Jill Lamothe.	0.20	108.12
Jun-01-22	SRV	Review email from Trial Coordinator in Hamilton setting out information for virtual hearing.	0.10	54.06
Jun-06-22	SRV	Review email from Tim Hogan with the attached issued Orders and Endorsement and confirming that the Order will be effective if the bank is not paid by August 31; Prepare bring forward re: same.	0.20	108.12
Sep-01-22	SRV	Review email from Matthew Harris regarding his client having interest in purchasing the property and obtaining Investing Order.	0.10	54.06

fogler

<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hrs</u>	<u>Fees</u>
Sep-02-22	SRV	Telephone calls and emails with Trevor Pringle re- evicting tenant; Prepare instructions to Michelle Wood and Amanda Carew re having Order registered on title to the property; Prepare draft email to tenant regarding vacating property; Review email from Michelle Wood attaching the Acknowledgement and Direction for execution by the Receiver; Draft email to Mukul Manchanda attaching Acknowledgement and Direction and confirming instructions to Michelle Wood; Review email from Trevor Pringle with attached Acknowledgement; Review modifications to demand letter by Vern Dabre; Draft email to Trevor Pringle and Vern Dabre regarding letter to tenant to evict.	3.50	\$10.92
Sep-02-22	VWD	Telephone conversation with Trevor Pringle and Scott Venton regarding tenant; review Order (appointing receiver) and Ancillary Order; review and revise draft eviction notice or letter to vacate.	1.30	702.79
Sep-03-22	AMC	Email exchanges; Review orders; Conference with M. Wood; Sign documents for registration.	0.60	251.71
Sep-02-22	MW	Review email requesting order be registered on title to the property; draft applications to register court orders and provide to S Venton; Google property address and City of Hamilton site and advise property may be mixed use - commercial and residential.	1.30	393.57
Sep-06-22	SRV	Finalize eviction notice to Stephanie Waller and send same by email	0.20	108.12
Sep-14-22	SRV	Review email from Lindsay Ferguson attaching Metron Record of the Applicant dated September 14, returnable September 20	0.20	108.12
Sep-16-22	SRV	Review email from Stephanie Waller in response to our eviction notice.	0.10	54.06
Sep-17-22	SRV	Draft email to Trevor Pringle regarding email from tenant with respect to vacating and suggesting that they deal with her directly; Review reply confirming same	0.10	54.06
Sep-20-22	SRV	Review email from Matthew Harris following up on his email regarding potentially purchasing the property in Hamilton; Draft reply directing Matthew Harris to Trevor Pringle; Review email from Trevor Pringle with respect to the anticipated sales process sometime in the fall and advising they will list his client's name to list of prospective purchasers; Review email from Evan McCullagh, at Spiegel & Partners, confirming Matthew Harris's client has been added to the list.	0.30	162.18

fogler

<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hrs</u>	<u>Fees</u>
Sep-28-22	SRV	Review instructions from Trevor Pringle to draft an agreement with respect to Stephanie Waller vacating by November 30, Draft email to Trevor with draft agreement and setting out my thoughts re: same; Review email from Trevor confirming agreement is satisfactory and that she will only be paid upon vacating as well the fact that they will be waiving rent in the interim; Finalize Agreement to Vacate for Stephanie Waller; Review email from court office regarding scheduled hearing date.	0.80	432.49
Sep-28-22	VWD	Draft Agreement to Vacate Premises; review email from client regarding same.	1.50	810.92
Sep-29-22	SRV	Draft and review emails with Tim Hogan confirming we do not need to attend the hearing.	0.10	54.06
Sep-29-22	VWD	Review and revise draft Agreement to Vacate Premises; email to Scott Venton regarding same; consider October 4, 2022 returnable court date; review Ancillary Order and email to Scott Venton regarding same.	0.50	270.31
Oct-04-22	SRV	Review email from Harrison Peasa attaching the issued Order from the motion confirming the Appointment Order is effective as of September 1.	0.10	54.06
Oct-18-22	VSE	Assorted searches.	0.60	43.25
Oct-18-22	VWD	Prepare first draft of legal opinion regarding the validity and enforceability of TD's security.	3.30	1,784.02
Oct-18-22	KP	Pull corporation profile reports and PIN and provide to V. DaRe.	0.20	57.95
Oct-19-22	SRV	Review report from Vern DaRe re: TD's security and minor issues identified and discuss same; Draft email to Trevor Pringle attaching security opinion and noting the few minor issues.	0.30	162.18
Oct-19-22	VWD	Review, revise and finalize draft legal opinion regarding the validity and enforceability of TD's security and loan documents regarding the credit facilities made available to the Borrowers; review TD's loan and security documents, including credit facilities, GSAs, Guarantees and Mortgage, in relation to the Borrowers; review the relevant searches including PPSA, Land Titles, Execution and Bank Act searches.	4.10	2,378.69
Oct-26-22	MW	Review request from LRO to amend registration of the ancillary order; email to LRO.	0.10	121.10
Oct-28-22	MW	Attend to re registration of the ancillary order; email to T Pringle enclosing a copy.	0.20	60.53
Nov-17-22	SRV	Review email from: Trevor Pringle attaching draft listing agreement with Avison Young; Discussion with Vera DaRe re: same and suggested revisions needed; Draft email to Trevor Pringle.	0.50	216.24

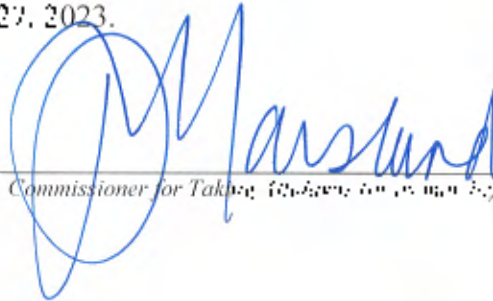
fogler

<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hrs</u>	<u>Fees</u>
Nov-17-22	VWD	Review draft Listing Agreement and comment on same; revise standard receivership provisions that should be included in the ultimate Purchase Agreement, email to Scott Venton.	1.10	394.67
Nov-21-22	VWD	Draft template receivership Agreement of Purchase and Sale; email from and to Scott Venton regarding same.	3.40	1,031.08
Nov-27-22	SRV	Draft and review emails with Trevor Pringle regarding draft purchase agreement recently used and review Trevor's comments re: same; Review Trevor's precedent and review comments by Vern Duke with respect to small changes which may be needed in same.	0.20	108.12
Nov-29-22	VWD	Review latest draft APS; propose revisions to same; finalize draft APS; email to client.	1.50	810.92
Nov-30-22	VWD	Email exchange with client regarding tenant vacating the premises today and the Receiver changing the locks.	0.20	108.12
TOTAL FEES:				\$13,200.00
OUR FEE HEREIN - Reduced from \$15,260.50 as a courtesy to you:				\$13,200.00

Disbursements

Taxable	Bankruptcy Search	\$32.00	
Taxable	Binding Supplies	\$11.65	
Taxable	Dr Corp Fee for Electronic Filing	\$44.40	
Taxable	PPSA Search	\$16.00	
Taxable	Prints	\$76.80	
Exempt	Registration	\$132.60	
Taxable	Search of Title	\$37.55	
Taxable	Tenant remote registration charge	\$22.10	
Taxable	Writs name search	\$55.00	
	Total Disbursements		\$428.50
	Total fees and Disbursements		\$13,628.50
	HST @ 13% on Fees and Taxable Disbursements		\$1,751.14
	Total Fees, Disbursements and Taxes This Bill		\$15,382.74
	Balance Due:		\$15,382.74

This is Exhibit "B" referred to in the Affidavit of Scott R. Ventor
sworn March 27, 2023.

A handwritten signature in blue ink, appearing to read "Mansland", is written over a horizontal line. The signature is stylized and cursive.

Commissioner for Taxing (Michigan Tax Commission)

Invoice Num: 22303932

March 23, 2023

msi Spenkel Inc.
505 Consumers Road, Suite 200
North York ON M2J 4V8

Attention: Philip Gemus
Licensed Insolvency Trustee

IN ACCOUNT WITH
Fogler, Rubloff LLP
77 King Street West, Suite 3000
TD Centre North Tower
P.O. Box 95
Toronto, ON
M5X 1G8
Telephone: 416-864-9700
Fax: 416-941-8852
www.foglers.com



Our File: M5052 / 222268
Receivership of 2580361 Ontario Inc. and 2580363 Ontario Inc.

FOR PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter from January 11, 2023 to March 23, 2023, including:

<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hrs</u>	<u>Fees</u>
Jan-11-23	VWD	Begin preparing best drafts of court motion materials for approval and vesting order including first draft of the approval and vesting order; review Land Titles search of real property.	2.30	1,472.00
Jan-12-23	VWD	Draft second court order for other relief, including approval of Receiver's actions, professional fees, and sealing of certain confidential documents.	1.00	640.00
Jan-12-23	VWD	Prepare first draft of notice of motion for approval and vesting order and other relief including approval of Receiver's actions and activities, the interim professional costs and sealing certain confidential documents.	1.60	1,024.00
Jan-12-23	VWD	Prepare first draft of Brief of Authorities for approval and vesting order and other relief including approval of professional costs and sealing certain confidential documents.	1.10	704.00
Jan-13-23	VWD	Prepare first draft of factum for approval and vesting order and other relief including court-approval of professional fees and sealing certain confidential documents.	2.20	1,408.00
Feb-02-23	VWD	Emails to and from client regarding other for property.	0.50	320.00
Feb-02-23	VWD	Revise notice of motion, draft Order, factum and brief of authorities to incorporate added relief of a proposed distribution to TD; email from client and reply to same; consider set off issue.	3.10	1,984.00

fogler

<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hrs</u>	<u>Fees</u>
Feb-02-23	VWD	Review emails from client regarding certain attempted deposits and cheques in relation to the TD bank account; review said cheques; review corporate search of sender of cheques; report to client regarding same.	1.50	560.00
Feb-03-23	VWD	Review APS or counter-offer from prospective purchaser; email to client, proposing revisions to same; emails from and to client.	2.20	1,408.00
Feb-06-23	VWD	Review latest revisions to counter-offer or APS; email from and to client regarding same.	0.50	320.00
Feb-08-23	SRV	Telephone call from Trevor Pringle re: binding Agreement of Purchase and Sale and need to obtain court date; Draft and review emails re: obtaining date.	0.20	130.00
Feb-08-23	VWD	Email to client regarding motion for approval and vesting order.	0.20	128.00
Feb-13-23	VWD	Review and revise draft notice of motion, court orders including approval and vesting order and factum regarding sale of real property and other relief.	2.40	1,536.00
Feb-15-23	KP	PubE corporation profile report for 1992654 Ontario Ltd.	0.10	35.00
Feb-16-23	VWD	Telephone conversation with Trevor Pringle; draft letter to John Mercante regarding certain funds.	0.60	384.00
Feb-17-23	VWD	Email exchanges with Trevor Pringle regarding draft letter to Mr. Mercante; review revisions to draft letter, finalize draft letter to Mr. Mercante.	0.40	256.00
Feb-23-23	VWD	Review emails from client and TD's lawyer, review emails from John Mercante's lawyer; draft letter to John Mercante's lawyer regarding Funds.	1.10	704.00
Feb-27-23	VWD	Email exchange with Trevor Pringle.	0.20	128.00
Mar-02-23	VWD	Review draft Authorization and Direction from Buyer's Lawyer, discuss same with client; propose revisions to same; email to Buyer's Lawyer.	0.60	384.00
Mar-06-23	VWD	Review email from client and reply.	0.20	128.00
Mar-07-23	VWD	Review email and telephone message from client; draft letter to Mr. Mercante's lawyer regarding Funds; email exchange with client regarding same.	0.50	320.00
Mar-11-23	VWD	Email exchange with client regarding Mr. Mercante.	0.20	128.00
Mar-22-23	VWD	Review and propose revisions to the draft First Report of the Receiver; address question raised by Receiver regarding the priority status of CRA's alleged unsecured trust claim for unpaid GST and review relevant statutory sections and commentary and reply to client.	3.60	2,304.00
Mar-23-23	VWD	Revise notice of motion, draft Approval and Vesting Order, draft Discharge Order, Factum and Brief of Authorities; further research issue regarding CRA unsecured trust claims.	7.20	4,608.00

fogler

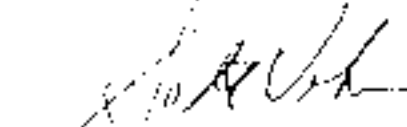
<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>hrs</u>	<u>Fees</u>
		TOTAL FEES:		\$21,413.00
		OUR FEE HEREIN:		\$21,413.00

Disbursements

Taxable	OnCorp Fee for Electronic Filing	\$22.20	
Taxable	Search of Title	\$39.10	
	Total Disbursements		\$61.30
	Total Fees and Disbursements		\$21,474.30
	HST @ 13% on Fees and Taxable Disbursements		\$2,791.66
	Total Fees, Disbursements and Taxes this Bill		\$24,265.96

Balance Due: **\$24,265.96**

**THIS IS OUR ACCOUNT HEREIN
FOGLER, RUBINOFF LLP**


Scott R. Venton

THIS ACCOUNT BEYOND THE EMPHASIS LINE MONTHLY BILL DELIVERED TO THE USER OF THE ACCOUNT IS ASSUMED TO BE ACCURATE UNLESS YOU CONTACT US WITHIN 30 DAYS OF THE DATE OF BILLING. ANY DISCREPANCIES NOT LISTED TO YOU BY US WILL BE THE RESPONSIBILITY OF THE USER OF THIS ACCOUNT.

U.S. OFFICE: 605/274-1111 GST/HST No. R119420859
For more information, contact your payment processor.

For your convenience, we have the following payment options:

- Online banking using the Bill Payment Service at most Canadian chartered banks. Please reference your file or account number in the notes box.
- Direct Deposits at a TD Branch: (please provide your Fogler, Rubinoff Lawyer with a copy of the cheque and deposit receipt).
- Wire transfer (please reference your file or account number).
- Electronic Funds Transfer (EFT)
- Cheque by mail or courier.

Should you require assistance, please contact our Accounts Receivable Department at 416.864.9700 x152 or by e-mail: accountsreceivable@foglers.com.

THE TORONTO-DOMINION BANK
Applicant

-and- 2580363 ONTARIO INC. and 2580364 ONTARIO INC.
Respondents

Court File No. CV-22-0078521-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
HAMILTON

FEE AFFIDAVIT OF SCOTT R. VENTON

FOGLER, RUBINOFF LLP

Lawyers
77 King Street West
Suite 3000, P.O. Box 95
TD Centre North Tower
Toronto, ON M5K 1G8

Vern W. DaRe (LSO# 32591E)

vdare@foglers.com

Tel: 416.947.8842

Fax: 416.947.8852

Lawyers for nusi Spargel inc.,
the Receiver

APPENDIX "9"

In the matter of the Receivership of
2580361 Ontario Inc.
Receiver's Interim Statement of Receipts and Disbursements
as of April 12, 2023

RECEIPTS

Cash in Bank	\$ 254,264.31
Purchaser Deposit	100,000.00
Advance from Secured Creditor	65,000.00
Interest	<u>2,489.71</u>

TOTAL RECEIPTS

\$ 421,754.02

DISBURSEMENTS

Insurance	\$ 27,525.23
Appraisal Fees	7,350.00
Repairs and Maintenance	7,286.86
Utilities	7,104.68
Tenant Settlement	5,000.00
HST paid	2,517.77
Change of Locks	850.00
Filing Fee and Ascend License	695.64
Travel	<u>96.99</u>

TOTAL DISBURSEMENTS

58,427.17

Net Receipts over Disbursements

\$ 363,326.85 E&OE

In the matter of the Receivership of
2580363 Ontario Inc.
Receiver's Interim Statement of Receipts and Disbursements
as of April 12, 2023

RECEIPTS		
Advance from Receiver	\$	383.57
		<u> </u>
TOTAL RECEIPTS		<u><u>\$ 383.57</u></u>
DISBURSEMENTS		
Ascend License Fee	\$	275.00
Filing Fee		72.82
HST on License		35.75
		<u> </u>
TOTAL DISBURSEMENTS		<u><u> 383.57</u></u>
Net Receipts over Disbursements	\$	<u><u> -</u></u> <i>E&OE</i>

APPENDIX "10"



Tax Centre
Hamilton ON L8R 3P7

September 22, 2022

2580361 ONTARIO INC.
C/O MBI SPERGEL INC.
200 - 505 CONSUMERS RD
NORTH YORK ON M2J 4V8

Account Number
71112 7092 RT0001

Dear Sir or Madam;

Subject: 2580361 Ontario Inc.

We understand that you have been appointed receiver or receiver-manager (receiver) for the above GST/HST registrant. Currently, the registrant owes goods and services tax / harmonized sales tax (GST/HST) of \$24,097.25.

Period outstanding	GST/HST payable	Penalty & interest	Total
2020 12-31	\$21,840.00	\$ 2,257.25	\$24,097.25

Under the Excise Tax Act, \$21,840.00 of the above totals represents property of the Crown held in trust and does not form part of 2580361 Ontario Inc. property, business, or estate. This is the case whether or not those funds are kept separate and apart from the registrant's own money or from the estate's assets.

You must pay the Receiver General for Canada \$21,840.00 out of the realization of any property subject to the trust created by subsection 222(3) of the Act before paying any other creditor. Please send us your payment right away. If this is not possible, please tell us when you will make the payment. Also, please tell us when you will pay the remaining balance of \$2,257.25.

As a receiver, you must collect and remit the registrant's

.../2

GST/HST for the period you are acting as a receiver. You also must file the registrant's returns for any periods ending while you were acting as receiver. This includes any returns the registrant did not file for a period ending in or immediately before the final year you became receiver.

- For more information or clarification, please call us at 416-997 1102.

Yours Truly,

Per: [Signature]

Kamila Figaszewska
Complex Case Officer

APPENDIX "11"



RECEIVED
OCT 31 2022

Tax Centre
Kitchener ON N2H 0A9

October 24, 2022

ATTENTION: EVAN MCCULLAGH
MSI SPERGEL INC
1602 - 21 KING ST W, BOX 54
HAMILTON ON L8P 4W7

Account Number
71023 0129 RT0001

Dear Mr. McCullagh:

Subject: 2580363 Ontario Inc

We understand that you have been appointed receiver or receiver-manager (receiver) for the above GST/HST registrant. Currently, the registrant owes goods and services tax / harmonized sales tax (GST/HST) of \$396,723.90.

Period outstanding	GST/HST payable	Penalty & interest	Total
2019-12-31	\$154,677.67	\$19,092.24	\$173,769.91
2020-12-31	\$118,346.69	\$17,104.47	\$135,451.16
2021-12-31	\$ 82,736.27	\$ 4,766.56	\$ 87,502.83

Under the Excise Tax Act, \$355,760.63 of the above totals represents property of the Crown held in trust and does not form part of 2580363 Ontario Inc's property, business, or estate. This is the case whether or not those funds are kept separate and apart from the registrant's own money or from the estate's assets.

You must pay the Receiver General for Canada \$355,760.63 out of the realization of any property subject to the trust created by subsection 222(3) of the Act before paying any other creditor. Please send us your payment right away. If this is not possible, please tell us when you will make the payment. Also, please tell us when you will pay the remaining balance of \$40,963.27.

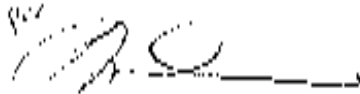
.../2



As a receiver, you must collect and remit the registrant's GST/HST for the period you are acting as a receiver. You also must file the registrant's returns for any periods ending while you were acting as receiver. This includes any returns the registrant did not file for a period ending in or immediately before the fiscal year you became receiver.

For more information or clarification, please call us at 905-516 2715.

Yours truly,



Wendy Rieger
Resource/Complex Case Officer

APPENDIX "12"



Fogler, Rubinoff LLP
Lawyers

77 King Street West
Suite 3000, PO Box 95
TD Centre North Tower
Toronto, ON M5K 1G8
t: 416.864.9700 | f: 416.941.8852
foglers.com

February 17, 2023

Lawyer: Vern W. DaRe
Direct Dial: 416.941.8842
E-mail: vdare@foglers.com
Our File No. 222268

VIA EMAIL

John Mercante
56 Varley Cres.
Brantford, ON N3R 7Z7
Email: johnmercante7@gmail.com

Dear Sir:

Re: In the Matter of the Receivership of 2580361 et al (the “Debtor”) – Court File No. CV-22-00078521-0000

And Re: Real Property municipally known as 21 Augusta Street, Hamilton (the “Premises”)

We are the solicitors for msi Spergel Inc. (the “**Receiver**”), in its capacity as Court-appointed receiver of the Debtor.

As you are aware, on September 1, 2022, the Receiver was appointed by way of Order issued by the Ontario Superior Court of Justice, over all of the assets, properties and undertakings of the Debtor, which includes the Premises (the “**Court Order**”). The Court Order was obtained by the application or motion of The Toronto-Dominion Bank (“**TD**”).

The Receiver understands that after the appointment of the Receiver two deposits were made in the Debtor’s account held at TD in the approximate amount of \$254,000 (the “**Funds**”). Pursuant to the Court Order, any funds available in the Debtor’s bank account fall within the definition of Property (as defined in the Court Order) unless evidence to the contrary is provided. We understand that you contacted the Receiver with respect to the Funds and advised that your legal counsel will be in touch with the Receiver with your position with respect to the Funds. We are asking that you provide your position in writing with respect to the Funds, including proof of origination of the Funds, the books and records of the Debtor and any other information to assist the Receiver in determining the beneficiary of the Funds. Please provide us with this evidence or proof on or before February 23, 2023, either by contacting the undersigned or the Receiver at:

Trevor Pringle, Partner
msi Spergel Inc.



21 King Street West, Suite 1602
Hamilton, ON L8P 4W7

Telephone: 905-527-2227
Email: tpringle@spergel.ca

The Receiver reserves all of its rights and remedies both at law and in equity regarding the Funds.

We look forward to your response and cooperation.

Yours truly,

FOGLER, RUBINOFF LLP

Vern W. DaRe

(electronically-generated signature)

Vern W. DaRe
VWD/mp



Fogler, Rubinoff LLP
Lawyers

77 King Street West
Suite 3000, PO Box 95
TD Centre North Tower
Toronto, ON M5K 1G8
t: 416.864.9700 | f: 416.941.8852
foglers.com

February 23, 2023

Lawyer: Vern W. DaRe
Direct Dial: 416.941.8842
E-mail: vdare@foglers.com
Our File No. 222268

VIA EMAIL

Chris Argiropoulos
CAPC Law
100 George St., Hamilton, ON L8P 1E2
Email: chris@capclaw.ca

Dear Sir:

Re: In the Matter of the Receivership of 2580363 Ontario Inc. and 2580361 Ontario Inc. (collectively, the “Debtors”) – Court File No. CV-22-00078521-0000

And Re: Real Property municipally known as 21 Augusta Street, Hamilton (the “Real Property”)

We are the solicitors for msi Spergel Inc. (the “**Receiver**”), in its capacity as Court-appointed receiver of the Debtors. We understand that you are counsel for Mr. John Mercante and/or the Debtors.

Further to our letter dated February 17, 2023 to Mr. Mercante, on September 1, 2022, the Receiver was appointed by way of Order issued by the Ontario Superior Court of Justice, over all of the assets, properties and undertakings of the Debtors, which includes the Real Property (the “**Court Order**”). The Court Order was obtained by the application or motion of The Toronto-Dominion Bank (“**TD**”).

We have been advised that our letter of February 17, 2023 to Mr. Mercante has been brought to your attention. As noted in that letter, the Receiver understands that after the appointment of the Receiver two deposits were made in one of the Debtor’s account held at TD in the approximate amount of \$254,000 (the “**Funds**”). Pursuant to the Court Order, any funds available in the Debtor’s bank account fall within the definition of Property (as defined in the Court Order) unless evidence to the contrary is provided. In particular, the definition of Property pursuant to the Court Order includes “...**all** of the assets, undertakings and properties of the Debtors acquired for, or used in relation to a business carried on by the Debtors, including the Real Property, and also including all **proceeds** thereof” (our emphasis). The definition of Property is not limited to post-receivership or pre-receivership property; it includes all property and proceeds of the Debtors

regardless of when that property or proceeds was acquired or used by the Debtors in relation to their business, whether before or after the court-appointment of the Receiver, until the Receiver is actually discharged.

Given the broad definition of Property under the Court Order, it is the Receiver's initial position that the Funds are Property and fall under the receivership. If your client's position is different, we are asking that you provide us with your legal position in writing with respect to the Funds, including proof of origination of the Funds, the books and records of the Debtors and any other information to assist the Receiver in ultimately determining the beneficiary of the Funds. Please provide us with this evidence or proof and your client's position on or before March 2, 2023 by contacting the undersigned.

The Receiver reserves all of its rights and remedies both at law and in equity regarding the Funds.

Yours truly,

FOGLER, RUBINOFF LLP

Vern W. DaRe

(electronically-generated signature)

Vern W. DaRe
VWD/mp

cc: Trevor Pringle, msi Spergel Inc. (*Via Email*)



Fogler, Rubinoff LLP
Lawyers

77 King Street West
Suite 3000, PO Box 95
TD Centre North Tower
Toronto, ON M5K 1G8
t: 416.864.9700 | f: 416.941.8852
foglers.com

March 7, 2023

Lawyer: Vern W. DaRe
Direct Dial: 416.941.8842
E-mail: vdare@foglers.com
Our File No. 222268

VIA EMAIL

Chris Argiropoulos
CAPC Law
100 George St., Hamilton, ON L8P 1E2
Email: chris@capclaw.ca

Dear Sir:

Re: In the Matter of the Receivership of 2580363 Ontario Inc. and 2580361 Ontario Inc. (collectively, the “Debtors”) – Court File No. CV-22-00078521-0000

And Re: Real Property municipally known as 21 Augusta Street, Hamilton (the “Real Property”)

We are the solicitors for msi Spergel Inc. (the “**Receiver**”), in its capacity as Court-appointed receiver of the Debtors. We understand that you are counsel for Mr. John Mercante and/or the Debtors.

Further to our letters dated February 17, 2023 to Mr. Mercante and dated February 23, 2023 to you, on September 1, 2022, the Receiver was appointed by way of Order issued by the Ontario Superior Court of Justice, over all of the assets, properties and undertakings of the Debtors, which includes the Real Property (the “**Court Order**”). The Court Order was obtained by the application or motion of The Toronto-Dominion Bank (“**TD**”).

We have been advised that our letter of February 17, 2023 to Mr. Mercante has been brought to your attention. As noted in that letter and our letter to you dated February 23, 2023, the Receiver understands that after the appointment of the Receiver two deposits were made in one of the Debtor’s account held at TD in the approximate amount of \$254,000 (the “**Funds**”). Pursuant to the Court Order, any funds available in the Debtor’s bank account fall within the definition of Property (as defined in the Court Order) unless evidence to the contrary is provided. In particular, the definition of Property pursuant to the Court Order includes “...**all** of the assets, undertakings and properties of the Debtors acquired for, or used in relation to a business carried on by the Debtors, including the Real Property, and also including all **proceeds** thereof” (our emphasis). The definition of Property is not limited to post-receivership or pre-receivership property; it

includes all property and proceeds of the Debtors regardless of when that property or proceeds was acquired or used by the Debtors in relation to their business, whether before or after the court-appointment of the Receiver, until the Receiver is actually discharged.

Given the broad definition of Property under the Court Order, it is the Receiver's initial position that the Funds are Property and fall under the receivership. In our earlier letter to you dated February 23, 2023, we asked that if your client's position was different, that you provide the undersigned with your client's legal position in writing **on or before March 2, 2023** with respect to the Funds, including proof of origination of the Funds, the books and records of the Debtors and any other information to assist the Receiver in ultimately determining the beneficiary of the Funds. To date, the undersigned has not heard from you or received your client's legal position in writing and proof of origination regarding the Funds.

Please provide us with this evidence or proof and your client's legal position on or before **March 10, 2023**, failing which it is the intention of the Receiver in its next motion before the court, to be seeking, among other relief, the court's confirmation or direction that the Funds are Property under the receivership, to be distributed to any of the creditors or secured creditors with valid or provable claims in accordance with their priorities, which will likely be TD as the main or first-ranking secured creditor.

The Receiver reserves all of its rights and remedies both at law and in equity regarding the Funds.

Yours truly,

FOGLER, RUBINOFF LLP

Vern W. DaRe

(electronically-generated signature)

Vern W. DaRe
VWD/mp

cc: Trevor Pringle, msi Spergel Inc. (*Via Email*)

APPENDIX "13"

SCHEDULE "B"
RECEIVER CERTIFICATE

CERTIFICATE NO: 001

AMOUNT: \$65,000.00

1. THIS IS TO CERTIFY that msi Spergel inc., the receiver (the "Receiver") of the assets, undertakings and properties of 2580363 Ontario Inc. and 2580361 Ontario Inc. (collectively, the "Debtors") acquired for, or used in relation to a business carried on by the Debtors, including the Real Property (as defined in the Appointment Order), and including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior court of Justice (the "Court") dated the 2nd day of June, 2022 (the "Order") made in an action having court file number CV-22-000078521-0000, has received as such receiver from the holder of this certificate (the "Lender") the principal sum of \$65,000.00, being part of the total principal sum of \$100,000.00 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 after the date hereof at a notional rate per annum equal to the rate of 1.5 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 19th day of September, 2022.

msi Spergel inc., solely in its capacity as Receiver of the Property, and not in its personal capacity.

Per: 

Name: Mukul Manchanda, CPA, CIRP, LIT
Title: Managing Partner

APPENDIX "14"

Mukul Manchanda

From: Lamothe, Jill C <Jill.Lamothe@td.com>
Sent: April 3, 2023 12:16 PM
To: Mukul Manchanda
Cc: Hanke, Peter W
Subject: RE: Out N' About

The total for legal fees is \$37,602.67

221440	2/1/2022	Harrison Pensa, LLP	Paid
224616	5/20/2022	Harrison Pensa, LLP	Paid
225086	6/13/2022	Harrison Pensa, LLP	Paid
228295	9/26/2022	Harrison Pensa, LLP	Paid
232076	2/15/2023	Harrison Pensa, LLP	Processed

Jill Lamothe | Account Manager | **TD Commercial Banking**
 CBC # 1070 | 3140 Dufferin Street, Toronto, ON M6A 2T1
 T: 416 785 5296 | F: 416 785 5082 | jill.lamothe@td.com

Internal

From: Mukul Manchanda <mmanchanda@spergel.ca>
Sent: Monday, April 3, 2023 11:15 AM
To: Lamothe, Jill C <Jill.Lamothe@td.com>
Cc: Hanke, Peter W <peter.hanke@td.com>
Subject: RE: Out N' About

CAUTION: EXTERNAL MAIL. DO NOT CLICK ON LINKS OR OPEN ATTACHMENTS YOU DO NOT TRUST
 ATTENTION : COURRIEL EXTERNE. NE CLIQUEZ PAS SUR DES LIENS ET N'OUVREZ PAS DE PIÈCES JOINTES AUXQUELS VOUS NE FAITES PAS CON

Yes please include the legal fees as well.

Mukul Manchanda, CPA, CIRP, LIT | Managing Partner
Corporate Restructuring & Insolvency
 msi Spergel inc. | Licensed Insolvency Trustees
 200 Yorkland Blvd., Suite 1100, Toronto, ON., M2J 5C1
 T: 416-498-4314 | F: 416-498-4314
mmanchanda@spergel.ca | www.spergelcorporate.ca
Insolvency • Restructuring • Consulting



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From: Lamothe, Jill C <Jill.Lamothe@td.com>
Sent: Monday, April 3, 2023 11:14 AM
To: Mukul Manchanda <mmanchanda@spergel.ca>
Cc: Hanke, Peter W <peter.hanke@td.com>
Subject: RE: Out N' About

Hi Mukul,

Here are the numbers:

Payout April 3, 2023

Borrower	Loan Type	Outstanding Balance	Accrued Interest	TOTAL
2580363 Ontario Inc	Operating line	\$ 4,849.94	\$ -	\$ 4,849.94
	HASCAP	\$ 250,000.00	\$ 11,232.87	\$ 261,232.87
	CEBA	\$ 40,000.00		\$ 40,000.00
	Visa payout loan	\$ 10,083.00	\$ 31.71	\$ 10,114.71
2580361 Ontario Inc.	Mortgage	\$ 1,133,506.96	\$ 69,967.00	\$ 1,203,473.96
TOTAL				\$ 1,519,671.48

Do you need legal fees as well?

Thanks,

Jill

Jill Lamothe | Account Manager | **TD Commercial Banking**
 CBC # 1070 | 3140 Dufferin Street, Toronto, ON M6A 2T1
 T: 416 785 5296 | F: 416 785 5082 | jill.lamothe@td.com

Internal

From: Mukul Manchanda <mmanchanda@spergel.ca>
Sent: Monday, April 3, 2023 10:39 AM
To: Lamothe, Jill C <Jill.Lamothe@td.com>; Hanke, Peter W <peter.hanke@td.com>
Subject: Re: Out N' About

CAUTION: EXTERNAL MAIL. DO NOT CLICK ON LINKS OR OPEN ATTACHMENTS YOU DO NOT TRUST
 ATTENTION : COURRIEL EXTERNE. NE CLIQUEZ PAS SUR DES LIENS ET N'OUVREZ PAS DE PIÈCES JOINTES AUXQUELS VOUS NE FAITES PAS CON

Thank you

Mukul Manchanda, CPA, CIRP, LIT | Managing Partner
Corporate Restructuring & Insolvency

msi Spergel inc. | Licensed Insolvency Trustees
 200 Yorkland Blvd., Suite 1100, Toronto, ON., M2J 5C1
 T: 416-498-4314 | F: 416-498-4314

mmanchanda@spergel.ca | www.spergelcorporate.ca

Insolvency • Restructuring • Consulting



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From: Lamothe, Jill C <Jill.Lamothe@td.com>

Sent: Monday, April 3, 2023 10:38:43 AM

To: Mukul Manchanda <mmanchanda@spergel.ca>; Hanke, Peter W <peter.hanke@td.com>

Subject: RE: Out N' About

Hi Mukul,

I'll work on the numbers and get it over to you shortly.

Thanks,

Jill

Jill Lamothe | Account Manager | **TD Commercial Banking**
 CBC # 1070 | 3140 Dufferin Street, Toronto, ON M6A 2T1
 T: 416 785 5296 | F: 416 785 5082 | jill.lamothe@td.com

Internal

From: Mukul Manchanda <mmanchanda@spergel.ca>

Sent: Monday, April 3, 2023 10:26 AM

To: Lamothe, Jill C <Jill.Lamothe@td.com>; Hanke, Peter W <peter.hanke@td.com>

Subject: Out N' About

CAUTION: EXTERNAL MAIL. DO NOT CLICK ON LINKS OR OPEN ATTACHMENTS YOU DO NOT TRUST
 ATTENTION : COURRIEL EXTERNE. NE CLIQUEZ PAS SUR DES LIENS ET N'OUVREZ PAS DE PIÈCES JOINTES AUXQUELS VOUS NE FAITES PAS CON

Hi Jill and Peter,

We are preparing to serve our materials with respect to approval of the sale transaction. Can you provide TD payout numbers as of today?

Thanks

Mukul Manchanda, CPA, CIRP, LIT | Managing Partner
Corporate Restructuring & Insolvency

msi Spergel inc. | Licensed Insolvency Trustees
 200 Yorkland Blvd., Suite 1100, Toronto, ON., M2J 5C1
 T: 416-498-4314 | F: 416-498-4314

mmanchanda@spergel.ca | www.spergelcorporate.ca

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APPENDIX "15"

LAND
REGISTRY
OFFICE #62

17170-0018 (LT)

PREPARED FOR dipierdomenico
ON 2021/12/21 AT 16:05:26

* 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
WE951402	2014/02/28	LIEN		*** COMPLETELY DELETED *** HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF FINANCE		
		REMARKS: CORPORATIONS TAX ACT				
WE963824	2014/05/15	DISCHARGE INTEREST		*** COMPLETELY DELETED *** HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF FINANCE		
		REMARKS: WE951402.				
WE1213548	2017/06/15	DISCH OF CHARGE		*** COMPLETELY DELETED *** RECIPROCAL OPPORTUNITIES INCORPORATED		
		REMARKS: VM272578.				
WE1241732	2017/10/05	APL (GENERAL)		*** COMPLETELY DELETED *** 1704342 ONTARIO LIMITED		
		REMARKS: DELETES VM61097				
WE1241737	2017/10/05	TRANSFER	\$1,275,000	1704342 ONTARIO LIMITED	2580361 ONTARIO INC.	C
		REMARKS: PLANNING ACT STATEMENTS.				
WE1241738	2017/10/05	CHARGE		*** COMPLETELY DELETED *** 2580361 ONTARIO INC.	FIRST SOURCE FINANCIAL MANAGEMENT INC.	
WE1241739	2017/10/05	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** 2580361 ONTARIO INC.	FIRST SOURCE FINANCIAL MANAGEMENT INC.	
		REMARKS: WE1241738				
WE1254883	2017/12/05	CHARGE		*** COMPLETELY DELETED *** 2580361 ONTARIO INC. MERCANTE, JOHN	SINGH, SWARANJEET	
WE1255175	2017/12/06	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** MERCANTE, JOHN 2580361 ONTARIO INC.	SINGH, SWARANJEET	
		REMARKS: WE1254883				
WE1266588	2018/02/02	DISCH OF CHARGE		*** COMPLETELY DELETED *** SINGH, SWARANJEET		
91		REMARKS: WE1254883.				
WE1271851	2018/03/06	CHARGE		*** COMPLETELY DELETED ***		

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

LAND
 REGISTRY
 OFFICE #62

17170-0018 (LT)

* 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
WE1271852	2018/03/06	NO ASSGN RENT GEN		2580361 ONTARIO INC. *** COMPLETELY DELETED *** 2580361 ONTARIO INC.	877534 ONTARIO LTD. 877534 ONTARIO LTD.	
	REMARKS: WE1271851					
WE1329875	2018/12/27	CHARGE		*** COMPLETELY DELETED *** 2580361 ONTARIO INC.	1015129 ONTARIO INC.	
WE1329876	2018/12/27	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** 2580361 ONTARIO INC.	1015129 ONTARIO INC.	
	REMARKS: WE1329875					
WE1329877	2018/12/27	CHARGE		*** COMPLETELY DELETED *** 2580361 ONTARIO INC.	2371733 ONTARIO INC.	
WE1329898	2018/12/28	DISCH OF CHARGE		*** COMPLETELY DELETED *** 877534 ONTARIO LTD.		
	REMARKS: WE1271851.					
WE1329940	2018/12/28	DISCH OF CHARGE		*** COMPLETELY DELETED *** FIRST SOURCE FINANCIAL MANAGEMENT INC.		
	REMARKS: WE1241738.					
WE1375722	2019/08/22	CHARGE	\$1,205,000	2580361 ONTARIO INC.	THE TORONTO-DOMINION BANK	C
WE1375723	2019/08/22	NO ASSGN RENT GEN		2580361 ONTARIO INC.	THE TORONTO-DOMINION BANK	C
	REMARKS: WE1375722					
WE1375785	2019/08/22	DISCH OF CHARGE		*** COMPLETELY DELETED *** 1015129 ONTARIO INC.		
	REMARKS: WE1329875.					
WE1375786	2019/08/22	DISCH OF CHARGE		*** COMPLETELY DELETED *** 2371733 ONTARIO INC.		
	REMARKS: WE1329877.					
WE1528225	2021/07/12	CHARGE	\$246,000	2580361 ONTARIO INC.	OLYMPIA TRUST COMPANY	C
WE1544032	2021/09/07	CHARGE	\$225,000	2580361 ONTARIO INC.	COMFORT CAPITAL INC.	C
WE1544033	2021/09/07	POSTPONEMENT		OLYMPIA TRUST COMPANY	COMFORT CAPITAL INC.	C
	REMARKS: WE1528225 TO WE1544032					

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

LAND
REGISTRY
OFFICE #62

17170-0018 (LT)

PREPARED FOR dipierdomenico
ON 2021/12/21 AT 16:05:26

* 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
WE1557214	2021/10/29	CHARGE	\$135,000	2580361 ONTARIO INC.	MAGIS, ALEX	C

APPENDIX "16"



Fogler, Rubinoff LLP
Lawyers

77 King Street West
Suite 3000, PO Box 95
TD Centre North Tower
Toronto, ON M5K 1G8
t: 416.864.9700 | f: 416.941.8852
foglers.com

October 19, 2022

Reply To: Scott R. Venton
Direct Dial: 416.941.8870
E-mail: sventon@foglers.com
Our File No. 222268

VIA EMAIL: TPRINGLE@SPERGEL.CA

msi Spergel inc.
Licensed Insolvency Trustees
21 King Street West
Suite 1602
Hamilton, Ontario
L8P 4W7
Attention: Trevor Pringle

Dear Sir:

Re: The Toronto-Dominion Bank ("TD") credit facilities to 2580363 Ontario Inc. ("363") and 2580361 Ontario Inc. ("361") (collectively, the "Borrowers")

In your capacity as court-appointed receiver over the property of the Borrowers, you have requested our opinion regarding the validity and enforceability of the security held by TD in relation to the credit facilities provided in favour of the Borrowers. In this regard, we have reviewed the following documents in the course of formulating our opinion:

- (a) a letter agreement between TD and 363 dated August 9, 2019 and amended by way of amending agreements dated March 23, 2020, October 7, 2020 and June 8, 2021 (collectively, the "**363 Letter Agreement**") regarding the following credit facilities: Facility #1 (Operating Facility with a credit limit of \$5,000, subject to change); Facility #2 (HASCAP Term Facility in the amount of \$250,000); and Facility #3 (Business Visa with a credit limit of \$10,000, subject to change) (collectively, the "**363 Financing**");
- (b) TD holds, *inter alia*, the following security, as security for the 363 Financing: (i) General Security Agreement from 363 dated August 21, 2019 (the "**363 GSA**"); (ii) Guarantee from 361 dated August 21, 2019 (the "**361 Guarantee**"), for an unlimited amount with the following collateral security: (1) General Security Agreement from 361 dated August 21, 2019 (the "**361 GSA**"; collectively, with the 363 GSA, the "**GSAs**"); and (2) Charge/Mortgage of Land from 361, in the principal amount of \$1,205,000, receipted as instrument number WE1375722 on August 22, 2019 (the "**Mortgage**") over the real property municipally known as 21 Augusta Street, Hamilton, Ontario, legally described as: PT LT 130 PL 1431 GEORGE HAMILTON SURVEY AS IN CD480053, S/T & T/W VM271333; CITY OF HAMILTON (PIN 17170-0018 LT) (the "**Real Property**"), as governed by Standard Charge Terms 8520 ("**SCTs 8520**") (collectively, the "**363 Security**");

- (c) a letter agreement between TD and 361 dated August 9, 2019 (the "**361 Letter Agreement**") regarding the following credit facility: Facility #1 (Term Facility in the amount of \$1,200,000) (the "**361 Financing**" and collectively with the 363 Financing, the "**Financing**"); and
- (d) TD holds, *inter alia*, the following security, as security for the 361 Financing: (i) The 361 GSA; (ii) The 363 GSA; (iii) Guarantee from 363 dated August 21, 2019 (the "**363 Guarantee**"), for an unlimited amount and (iv) The Mortgage over the Real Property, as governed by SCTs 8520
- (collectively, the "**361 Security**" and collectively with the 363 Security, the "**Security**").

A. Standard Assumptions and Qualifications

In rendering our opinion concerning the Security, we have made the following standard assumptions:

1. The genuineness of all signatures, the legal capacity of natural persons, the conformity to original documents of all documents submitted to us as copies and the authenticity of all of the originals of such copies;
2. That all necessary corporate proceedings were taken to authorize the execution and delivery of the Security documentation;
3. That we have been provided with all documentation affecting the validity or enforceability of the Security documentation, and there are no verbal agreements varying the terms of the Security documentation;
4. That valuable consideration was given by TD to the Borrowers;
5. That the Borrowers had the corporate power and capacity to borrow money in Ontario, to provide the Security documentation, to execute and deliver the Security documentation and to perform the covenants contained in the Security documentation on its part to be performed;
6. That there are no laws other than those of Ontario and those of Canada applicable in Ontario that would limit or affect the enforceability of the Security documentation;
7. That the Borrowers owned the collateral or equipment over which TD was granted a security interest;
8. We express no opinion as to whether the Security can be attacked under the *Bankruptcy and Insolvency Act* (Canada) or any other federal or provincial legislation as a fraudulent conveyance, transfer at undervalue, preference or otherwise;

9. We express no opinion as to the priority of the Security as against unregistered statutory trusts or liens; and
10. We express no opinion as to the validity of any security interest in any contractual rights or crown debts, which, by their terms, cannot be the subject of a security interest without the consent, authorization or approval of third parties.

B. Letter Agreements

The 363 Letter Agreement and 361 Letter Agreement (collectively, the "**Letter Agreements**") appear properly signed by the parties and are valid and enforceable as per their terms. The initial 363 Letter Agreement dated August 9, 2019 was to be accepted by 363 on or before August 31, 2019 for it to be binding on the parties. That is, TD's offer under the letter would expire unless accepted in writing by 363 and received by TD on or before August 31, 2019. While 363 signed the letter, it did not insert the date of acceptance and therefore on the face of the document it is not possible to determine whether the letter was accepted on or before August 31, 2019. Since there were subsequent amendments to the initial letter and the parties took actions or conducted themselves in accordance with or further to the initial letter including granting the Security, we are assuming that 363 accepted TD's offer in the letter on or before August 31, 2019, making the initial 363 Letter Agreement binding on the parties. As noted, the initial 363 Letter Agreement was amended. There were amendments made on March 23, 2020, October 7, 2020 and June 8, 2021. The June 8, 2021 amendment or amending letter or amending agreement is signed by TD, left open to be accepted by 363 on or before July 31, 2021 and was properly accepted, dated and signed by 363 on June 11, 2021. The June 8, 2021 amendment is therefore clearly binding on the parties. However, the March 23, 2020 and October 7, 2020 amendments or amending letters or amending agreements, while signed by TD, do not appear to be signed or accepted by 363 on the face of the amending letters in our possession. We are assuming that TD has in its possession the fully signed March 23, 2020 and October 7, 2020 amending letters or amending agreements. Subject to these comments, the amendments appear to have been validly made by the parties.

The Letter Agreements make reference to documents or security documents not in our possession and therefore not included in this opinion letter including the assignment of fire insurance, the unlimited guarantee by Johnny (John) Mercante, the general assignment of rents and leases, the postponement and assignment of creditor's claim, and the HASCAP Guarantee granted by the Business Development Bank of Canada. Also, in addition to the 363 Financing, we understand that funds may have been advanced to 363 under the Canada Emergency Business Account (loan offered by the Government of Canada) or Canada Emergency Business Credit Agreement ("**CEBA**"). We have no documents in our possession regarding this alleged government loan or CEBA, and it does not form part of our legal opinion.

C. GSAs

In accordance with the Letter Agreements, the Borrowers each granted and signed separate GSAs in favour of TD. The GSAs are valid and enforceable as per their written terms. The GSAs grant TD, among other things, a general and continuing security interest in all of the Borrowers' present and after acquired personal property.

D. PPSA Review

TD has registered a financing statement and financing change statement against the Borrowers under the *Personal Property Security Act* (the "**PPSA**") to perfect its security interest in the personal property secured under the GSAs. The PPSA search results, as of October 17, 2022, confirm that the TD has a perfected security interest in the personal property of the Borrowers secured under the GSAs. In particular, TD's financing statement against the Borrowers has registration number 20190822 1600 1862 6469. The registration period is 5 years, expiring on August 22, 2024. The PPSA registration checks off the following collateral: inventory, equipment, accounts, other and motor vehicle included. A financing change statement was subsequently registered against the Borrowers on January 7, 2022, amending the registration by adding an additional business debtor name, "Aout'n About". The registration number is 20220107 1313 1590 2454.

As of October 17, 2022, there were no other registrations under the PPSA against the Borrowers. TD's PPSA registrations against the Borrowers are therefore "first in time" and prior registrations at this time.

E. Mortgage

TD's interest in the Real Property is secured by the Mortgage, as governed by SCTs 8520. We reviewed the parcel register, current to October 18, 2022, for the Real Property. TD's Mortgage from 361, in the principal amount of \$1,205,000, is registered on title and receipted as instrument number WE1375722 on August 22, 2019. There is also a notice of assignment of rents in favour of TD registered on title on August 22, 2019, as instrument number WE1375723. There are also other charges registered on title to the Real Property, subsequent to TD's Mortgage, in favour of Olympia Trust Company (\$246,000), Comfort Capital Inc. (\$225,000) and Alex Magis (\$135,000) (collectively, the "**Subsequent Charges**"). Olympia Trust Company and Comfort Capital Inc. appear to have entered into a postponement agreement regarding their mortgages. Also, as per your instructions, we note from the land titles search of the Real Property, that the court order appointing you as receiver over the property of the Borrowers or notice of same, has been registered on title. We also understand that there may be arrears of property tax due and owing to the City of Hamilton in relation to the Real Property (the "**Property Tax Arrears**"). The legal description indicated in the parcel register is correctly identified on TD's Mortgage. Pursuant to the SCTs 8520, TD's Mortgage secures the Financing or obligations of the Borrowers under the Letter Agreements. TD holds a first-priority Mortgage, registered on title of the Real Property before the Subsequent Charges, subject to any priority charges including granted by court order(s) or created by the Property Tax Arrears.

F. Guarantees

TD's Security includes the 361 Guarantee and 363 Guarantee (the "**Guarantees**"). The Guarantees appear to be properly signed, and valid and enforceable as per their written terms. The Guarantees do not contain a clause which indicate that the respective guarantor, 361 or 363, acknowledged reading the respective guarantee and either obtained independent legal advice ("**ILA**") or chose not to seek ILA. These Guarantees do not have a solicitor's certificate that is signed in respect of ILA.

G. Other Searches

In addition to the above PPSA and land titles searches, we have conducted relevant execution searches (for the City of Toronto and City of Hamilton), current to on or about October 18, 2022, against the Borrowers. As against the Borrowers, the results of these searches came back "nil" or with no active writs of execution. We also conducted a *Bank Act* search against the Borrowers, current to on or about October 18, 2022, and the results were "nil" or with no matches.

H. Opinion

We are of the opinion that the Letter Agreements constitute legal, valid and binding obligations of the Borrowers. These obligations are enforceable against the Borrowers in accordance with the terms of the Letter Agreements. We are also of the opinion that TD's Security is valid and enforceable against the Borrowers and that proper registrations have been made regarding the Security.

If you have any questions, please do not hesitate to contact the undersigned.

Yours truly,

FOGLER, RUBINOFF LLP

"Scott R. Venton"

Scott R. Venton

APPENDIX "17"

STATEMENT OF ACCOUNT

City of Hamilton

This statement is not a certified statement of arrears or current taxes under Section 352 of the Municipal Act, 2001.

Property Address: 21	AUGUSTA ST
Mortgage Company:	Name:
Instrument No:	

Property Owners: 2580361 ONTARIO INC

2580361 ONTARIO INC
56 VARLEY CRES
BRANTFORD ON N3R 7Z7

Legal Description: PLAN 1431 PT LOT 130
0.04AC 24.50FR 66.00D

Assessments

<u>Class</u>	<u>Description</u>
CTN	Commercial Taxable
RTEP	Res. Eng. Public

<u>Amount</u>
288,800
95,200

Special Area Charges

<u>Sp.ID</u>	<u>Description</u>
AFB	Fire Levy-Urban
ARB	Area Levy-Urban
POL	Police Levy
SOC	Prov Shared Programs
TRB	Transit Levy

Account Balance Information

Transaction Summary:

<u>Year</u>	<u>Tax Levied</u>	<u>Penalty/Interest</u>	<u>Adjustments</u>	<u>Payments</u>	<u>Balance</u>
2023	4,986.34	0.00	0.00	0.00	4,986.34
2022	9,972.66	1,564.67	6,168.13	0.00	17,705.46
2021	9,727.99	996.08	4,392.51	9,853.72	5,262.86
2020	9,883.67	1,124.69	1,788.00	12,796.36	0.00
					27,954.66

Account Balance:

<u>Year</u>	<u>Tax Outstanding</u>	<u>Penalty/Interest Outstanding</u>	<u>Other Outstanding</u>	<u>Balance</u>
2023	4,986.34	0.00	0.00	4,986.34
2022	15,661.89	1,564.67	478.90	17,705.46
2021	4,242.52	848.09	172.25	5,262.86
2020	0.00	0.00	0.00	0.00
				27,954.66

CA 1

Confidential Appendix "1"

**Appraisal Reports for
21 Augusta Street,
Hamilton, Ontario**

CA 2

Confidential Appendix "2"

**Unredacted copies of the
sales and marketing
proposal of CBRE and
Avison Young**

CA 3

Confidential Appendix "3"

**Progress Report issued
by Avison Young dated
February 21, 2023**

CA 4

Confidential Appendix "4"

**Initial Comparative
Summary of Offers
Received for
21 Augusta Street,
Hamilton**

CA 5

Confidential Appendix "5"

Final Comparative Summary of Offers Receiver for 21 Augusta Street, Hamilton

CA 6

Confidential Appendix "6"

**Unredacted copy of
MUSE Properties Ltd.
offer to purchase
21 Augusta Street,
Hamilton, Ontario**

TAB C

Court File No. CV-22-0078521-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE) THURSDAY, THE 27th DAY
 JUSTICE)
) OF APRIL, 2023

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

2580363 ONTARIO INC. AND 2580361 ONTARIO INC.

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by msi Spergel inc., in its capacity as the court-appointed receiver (the "Receiver") of the undertaking, property and assets of 2580363 Ontario Inc. and 2580361 Ontario Inc. (collectively, the "Debtors") for an order, among other relief, approving the sale transaction (the "Transaction") contemplated by an Agreement of Purchase and Sale dated January 27, 2023 and accepted February 6, 2023, as amended (the "Sale Agreement") between the Receiver and Muse Properties Ltd., as general partner for and on behalf of Muse Properties Limited Partnership (the "Purchaser") and appended to the Report of the Receiver dated April 12, 2023 (the "First Report"), and vesting in the Purchaser the Debtors' right, title and interest in and to the assets, including the real property owned by 2580361 Ontario Inc., described in the Sale

Agreement (the "Purchased Assets"), was heard this day by videoconference via Zoom in Hamilton, Ontario due to the COVID-19 pandemic.

ON READING the First Report, and on hearing the submissions of counsel for the Receiver, and those parties listed on the Counsel Slip or Participant Information Form, no one else appearing although duly served with the Receiver's Motion Record and First Report as appears from the affidavit of service of Michelle Pham sworn April 17, 2023, filed:

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
3. THIS COURT ORDERS AND DECLARES that upon the completion of the Sale Agreement and delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of the Debtors' right, title and interest in and to the Purchased Assets described in the Sale Agreement including the real property described in Schedule B hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens,

executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Orders of the Honourable Justice MacNeil each dated June 2, 2022 and the Honourable Justice Parayeski dated October 4, 2022; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. THIS COURT ORDERS that upon the registration in the Land Registry Office for the Land Titles Division of Hamilton (No. 62) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

5. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the

sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

7. THIS COURT ORDERS that, notwithstanding:

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

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

8. THIS COURT 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.

9. THIS COURT ORDERS that this Order is effective from the date on which it is made, and is enforceable without any need for entry and filing.

Schedule A – Form of Receiver’s Certificate

Court File No. CV-22-0078521-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE****B E T W E E N:****THE TORONTO-DOMINION BANK**

Applicant

- and -

2580363 ONTARIO INC. AND 2580361 ONTARIO INC.

Respondents

RECEIVER’S CERTIFICATE**RECITALS**

A. Pursuant to the Orders of the Honourable Justice MacNeil each dated June 2, 2022 and the Honourable Justice Parayeski dated October 4, 2022, of the Ontario Superior Court of Justice (the "Court"), msi Spergel inc. was appointed as the receiver (the "Receiver") of the undertaking, property and assets of 2580363 Ontario Inc. and 2580361 Ontario Inc. (the “Debtors”).

B. Pursuant to an Order of the Court dated April 27, 2023, the Court approved the Agreement of Purchase and Sale dated January 27, 2023 and accepted February 6, 2023, as amended (the "Sale Agreement") between the Receiver and Muse Properties Ltd., as general partner for and on behalf of Muse Properties Limited Partnership (the "Purchaser") and provided for the vesting in the Purchaser, of the Debtors' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Sale

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

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

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver on ●, 2023.

**msi Spergel Inc., in its capacity as Receiver of
the undertaking, property and assets of
2580363 Ontario Inc. and 2580361 Ontario
Inc., and not in its personal capacity**

Per: _____

Name:

Title:

Schedule B – Legal Description of Real Property

PIN 17170-0018 (LT)

PT LT 130 PL 1431 GEORGE HAMILTON SURVEY AS IN CD480053, S/T & T/W VM271333; CITY OF HAMILTON

Municipally known as 21 Augusta Street, Hamilton, Ontario

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

<u>Reg. No.</u>	<u>Date Registered</u>	<u>Parties</u>	<u>Brief Description</u>
WE1241737	2017/10/05	1704342 Ontario Limited and 2580361 Ontario Inc.	TRANSFER (\$1,275,000)
WE1375722	2019/08/22	2580361 Ontario Inc. and The Toronto-Dominion Bank	CHARGE (\$1,205,000)
WE1375723	2019/08/22	2580361 Ontario Inc. and The Toronto-Dominion Bank	NO ASSGN RENT GEN
WE1528225	2021/07/12	2580361 Ontario Inc. and Olympia Trust Company	CHARGE (\$246,000)
WE1544032	2021/09/07	2580361 Ontario Inc. and Comfort Capital Inc.	CHARGE (\$225,000)
WE1544033	2021/09/07	Olympia Trust Company and Comfort Capital Inc.	POSTPONEMENT
WE1557214	2021/10/29	2580361 Ontario Inc. and Magis, Alex	CHARGE (\$135,000)
WE1631716	2022/09/02	Ontario Superior Court of Justice and MSI Spergel Inc.	APL COURT ORDER
WE1631717	2022/09/02	Ontario Superior Court of Justice and MSI Spergel Inc.	APL COURT ORDER

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

(unaffected by the Vesting Order)

General Permitted Encumbrances

1. Encumbrances for real property taxes (which term includes charges, rates and assessments) or charges for electricity, power, gas, water and other services and utilities in connection with the Real Property that have accrued but are not yet due and owing or, if due and owing, are adjusted for on Closing.
2. Development agreements, servicing agreements, utility agreements and other similar agreements with Governmental Authorities or public utilities which in the aggregate do not materially impair the value of the Real Property.
3. Encroachments by the Real Property over neighbouring lands and/or permitted under agreements with neighbouring landowners which in the aggregate do not materially impair the value of the Real Property.
4. Any subsisting reservations, limitations, provisos, conditions or exceptions, including royalties, contained in the original grant of the Real Property from the Crown.
5. The limitations, exceptions and qualifications contained in the *Land Titles Act* (Ontario).
6. Any rights of expropriation, access or use or any other rights conferred or reserved by or in any statute of Canada or the Province of Ontario.
7. Any unregistered interest in the Real Property of which the Purchaser has actual notice.
8. Any unregistered easements regarding the provision of utilities to the Real Property.
9. All registrations which are registered against title to the Real Property or any portion thereof by, for or through the actions or instructions of the Purchaser.
10. Any rights reserved to or vested in any Governmental Authorities by any statutory provision or authority.

Specific Permitted Encumbrances

<u>Reg. No.</u>	<u>Date Registered</u>	<u>Parties</u>	<u>Brief Description</u>
CD474814	1988/09/13	City of Hamilton	Agreement (Sketch Attached)
VM273002	2007/06/11	1704342 Ontario Limited, 1704343 Ontario Limited and City of Hamilton	Agreement

THE TORONTO-DOMINION BANK
Applicant

-and- **2580363 ONTARIO INC. and 2580361 ONTARIO INC.**
Respondents

Court File No. CV-22-0078521-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
HAMILTON

APPROVAL AND VESTING ORDER

FOGLER, RUBINOFF LLP

Lawyers

77 King Street West

Suite 3000, P.O. Box 95

TD Centre North Tower

Toronto, ON M5K 1G8

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Lawyers for msi Spergel inc.,
the Receiver

TAB D

Court File No. ● [CV-22-0078521-0000](#)

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) [THURSDAY](#), THE [27th DAY](#)
 JUSTICE)
) ~~DAY~~ OF [APRIL](#), ~~2021~~[2023](#)
)

BETWEEN:**THE TORONTO-DOMINION BANK****BETWEEN:**

●

Applicant

- and -

●

2580363 ONTARIO INC. AND 2580361 ONTARIO INC.Respondents**Respondent****APPROVAL AND VESTING ORDER**

THIS MOTION, made by ● [msi Spergel inc.](#), in its capacity as the ~~Court-appointed~~[court-appointed](#) receiver (the "Receiver") of the undertaking, property and assets of ● ~~(the "Debtor~~[2580363 Ontario Inc. and 2580361 Ontario Inc. \(collectively, the "Debtors"\)](#) for an order, ~~among other relief~~, approving the sale transaction (the "Transaction") contemplated by an ~~agreement of purchase and sale~~[Agreement of Purchase and Sale dated January 27, 2023 and accepted February 6, 2023, as amended](#) (the "Sale Agreement") between the Receiver and ● [Muse Properties Ltd.](#), as general partner for and on behalf of [Muse Properties Limited Partnership](#) (the "Purchaser") ~~dated July [DATE], 2022~~ and appended to the Report of the Receiver dated

~~[DATE]~~ April 12, 2023 (the "First Report"), and vesting in the Purchaser, ~~the Debtor's Debtors'~~ right, title and interest in and to the assets, including the real property owned by 2580361 Ontario Inc., described in the Sale Agreement (the "Purchased Assets"), was heard this day by videoconference via Zoom in ~~Toronto~~ Hamilton, Ontario due to the COVID-19 pandemic.

ON READING the First Report, and on hearing the submissions of counsel for the Receiver, and those ~~other~~ parties listed on the Counsel Slip or Participant Information Form, no one else appearing ~~for any other person on the service list~~, although ~~properly served~~ duly served with the Receiver's Motion Record and First Report as appears from the affidavit of ~~service of~~ Michelle Pham sworn ~~July 1, 2022~~ April 17, 2023, filed:

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
3. THIS COURT ORDERS AND DECLARES that upon the completion of the Sale Agreement and delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of the ~~Debtor's Debtors'~~ right, title and interest in and to the Purchased Assets described in the Sale Agreement including the real property described in Schedule B hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the

"Claims"¹) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the ~~Order~~Orders of the Honourable Justice ~~[NAME]~~ dated [DATE] MacNeil each dated June 2, 2022 and the Honourable Justice Parayeski dated October 4, 2022; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. THIS COURT ORDERS that upon the registration in the Land Registry Office for the ~~[Registry Division of {LOCATION} of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver]~~[Land Titles Division of {LOCATION} Hamilton (No. 62) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*², the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

5. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds³ from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the

¹~~The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.~~

²~~Elect the language appropriate to the land registry system (Registry vs. Land Titles).~~

³~~The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".~~

same priority as they had with respect to the Purchased Assets immediately prior to the sale⁴, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

~~7. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada Personal Information Protection and Electronic Documents Act, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "•" to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.~~

7. ~~8.~~ THIS COURT ORDERS that, notwithstanding:

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

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the ~~Debtor~~Debtors and shall not be void or voidable by creditors of the ~~Debtor~~Debtors, nor shall it constitute nor be deemed to be a

~~⁴This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~

settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

~~9. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).~~

8. ~~10.~~ 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.

9. THIS COURT ORDERS that this Order is effective from the date on which it is made, and is enforceable without any need for entry and filing.

Schedule A – Form of Receiver’s Certificate

Court File No. ~~_____~~ CV-22-0078521-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant
PLAINTIFF
 Plaintiff

- and -

DEFENDANT
2580363 ONTARIO INC. AND 2580361 ONTARIO INC.

Respondents
 Defendant

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to ~~an Order~~ the Orders of the Honourable ~~[DATE OF JUDGE]~~ Justice MacNeil ~~each dated June 2, 2022 and the Honourable Justice Parayeski dated October 4, 2022,~~ of the Ontario Superior Court of Justice (the "Court") ~~dated [DATE OF ORDER], [NAME OF RECEIVER],~~ msi Spergel inc. was appointed as the receiver (the "Receiver") of the undertaking, property and assets of ~~[DEBTOR] (the “Debtor~~ 2580363 Ontario Inc. and 2580361 Ontario Inc. (the “Debtors”).

B. Pursuant to an Order of the Court dated ~~[DATE]~~ April 27, 2023, the Court approved the ~~agreement of purchase and sale made as of [DATE OF AGREEMENT]~~ Agreement of Purchase and Sale dated January 27, 2023 and accepted February 6, 2023, as amended (the "Sale Agreement") between the Receiver ~~[Debtor] and [NAME OF PURCHASER]~~ and Muse Properties Ltd., as general partner for and on behalf of Muse Properties Limited Partnership (the "Purchaser") and provided for the vesting in the Purchaser, of the ~~Debtor’s~~ Debtors' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by

the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in ~~section 4.1 of~~ the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in ~~section 4.1 of~~ the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at ~~[TIME]~~ on ~~_____~~ ~~[DATE]~~, 2023.

~~[NAME OF RECEIVER]~~ msi Spergel Inc., in its capacity as Receiver of the undertaking, property and assets of ~~[DEBTOR]~~ 2580363 Ontario Inc. and 2580361 Ontario Inc., and not in its personal capacity

Per: _____

Name:

Title:

Schedule B – ~~Purchased Assets~~ Legal Description of Real Property

PIN 17170-0018 (LT)

PT LT 130 PL 1431 GEORGE HAMILTON SURVEY AS IN CD480053, S/T & T/W VM271333; CITY OF HAMILTON

Municipally known as 21 Augusta Street, Hamilton, Ontario

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

<u>Reg. No.</u>	<u>Date Registered</u>	<u>Parties</u>	<u>Brief Description</u>
<u>WE1241737</u>	<u>2017/10/05</u>	<u>1704342 Ontario Limited and 2580361 Ontario Inc.</u>	<u>TRANSFER (\$1,275,000)</u>
<u>WE1375722</u>	<u>2019/08/22</u>	<u>2580361 Ontario Inc. and The Toronto-Dominion Bank</u>	<u>CHARGE (\$1,205,000)</u>
<u>WE1375723</u>	<u>2019/08/22</u>	<u>2580361 Ontario Inc. and The Toronto-Dominion Bank</u>	<u>NO ASSGN RENT GEN</u>
<u>WE1528225</u>	<u>2021/07/12</u>	<u>2580361 Ontario Inc. and Olympia Trust Company</u>	<u>CHARGE (\$246,000)</u>
<u>WE1544032</u>	<u>2021/09/07</u>	<u>2580361 Ontario Inc. and Comfort Capital Inc.</u>	<u>CHARGE (\$225,000)</u>
<u>WE1544033</u>	<u>2021/09/07</u>	<u>Olympia Trust Company and Comfort Capital Inc.</u>	<u>POSTPONEMENT</u>
<u>WE1557214</u>	<u>2021/10/29</u>	<u>2580361 Ontario Inc. and Magis, Alex</u>	<u>CHARGE (\$135,000)</u>
<u>WE1631716</u>	<u>2022/09/02</u>	<u>Ontario Superior Court of Justice and MSI Spergel Inc.</u>	<u>APL COURT ORDER</u>
<u>WE1631717</u>	<u>2022/09/02</u>	<u>Ontario Superior Court of Justice and MSI Spergel Inc.</u>	<u>APL COURT ORDER</u>

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

(unaffected by the Vesting Order)

General Permitted Encumbrances

1. Encumbrances for real property taxes (which term includes charges, rates and assessments) or charges for electricity, power, gas, water and other services and utilities in connection with the Real Property that have accrued but are not yet due and owing or, if due and owing, are adjusted for on Closing.
2. Development agreements, servicing agreements, utility agreements and other similar agreements with Governmental Authorities or public utilities which in the aggregate do not materially impair the value of the Real Property.
3. Encroachments by the Real Property over neighbouring lands and/or permitted under agreements with neighbouring landowners which in the aggregate do not materially impair the value of the Real Property.
4. Any subsisting reservations, limitations, provisos, conditions or exceptions, including royalties, contained in the original grant of the Real Property from the Crown.
5. The limitations, exceptions and qualifications contained in *the Land Titles Act (Ontario)*.
6. Any rights of expropriation, access or use or any other rights conferred or reserved by or in any statute of Canada or the Province of Ontario.
7. Any unregistered interest in the Real Property of which the Purchaser has actual notice.
8. Any unregistered easements regarding the provision of utilities to the Real Property.
9. All registrations which are registered against title to the Real Property or any portion thereof by, for or through the actions or instructions of the Purchaser.
10. Any rights reserved to or vested in any Governmental Authorities by any statutory provision or authority.

Specific Permitted Encumbrances

<u>Reg. No.</u>	<u>Date Registered</u>	<u>Parties</u>	<u>Brief Description</u>
<u>CD474814</u>	<u>1988/09/13</u>	<u>City of Hamilton</u>	<u>Agreement (Sketch Attached)</u>
<u>VM273002</u>	<u>2007/06/11</u>	<u>1704342 Ontario Limited, 1704343 Ontario Limited and City of Hamilton</u>	<u>Agreement</u>

THE TORONTO-DOMINION BANK
Applicant

-and- 2580363 ONTARIO INC. and 2580361 ONTARIO INC.
Respondents

Court File No. CV-22-0078521-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
HAMILTON

APPROVAL AND VESTING ORDER

FOGLER, RUBINOFF LLP

Lawyers

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Lawyers for msi Spergel inc.,
the Receiver

TAB E

Court File No. CV-22-0078521-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) THURSDAY, THE 27th DAY
JUSTICE) OF APRIL, 2023

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

2580363 ONTARIO INC. AND 2580361 ONTARIO INC.

Respondents

DISCHARGE ORDER

THIS MOTION, made by msi Spergel inc., in its capacity as the court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of 2580363 Ontario Inc. ("**363**") and 2580361 Ontario Inc. ("**361**") (together, the "**Debtors**") pursuant to the Orders of the Honourable Justice MacNeil each dated June 2, 2022 and the Honourable Justice Parayeski dated October 4, 2022, of the Ontario Superior Court of Justice (collectively, the "**Receivership Order**"), for an order, among other relief:

1. approving the actions and activities of the Receiver as set out in the report of the Receiver dated April 12, 2023 (the "**First Report**");
2. approving the fees and disbursements of the Receiver and its counsel;

3. approving the statement of receipts and disbursements of the Receiver;
4. approving the payment and distribution of the remaining net proceeds available in the estate of the Debtors;
5. approving the sealing of the Confidential Appendices to the First Report;
6. approving the Fee Accrual;
7. declaring the Funds to be "Property" under the Receivership Order;
8. discharging msi Spergel inc. as Receiver of the undertaking, property and assets of the Debtors; and
9. releasing msi Spergel inc. from any and all liability as set out below in this Order,

was heard this day by videoconference via Zoom in Hamilton, Ontario due to the COVID-19 pandemic.

ON READING the First Report, and the affidavits on behalf of the Receiver and its counsel as to fees and disbursements, included in the First Report (the "**Fee Affidavits**"), and on hearing the submissions of counsel for the Receiver, and those parties listed on the Counsel Slip or Participant Information Form, no one else appearing although duly served with the Receiver's Motion Record and First Report, as appears from the affidavit of service of Michelle Pham sworn April 17, 2023, filed:

Service and Definitions

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. THIS COURT ORDERS that capitalized terms used herein that are not otherwise defined shall have the meaning ascribed to them in the First Report.

Receiver's Actions and Activities

3. THIS COURT ORDERS that the First Report and the actions and activities of the Receiver as described in the First Report, including in respect of the real property owned by 361 and municipally known as 21 Augusta Street, Hamilton, Ontario and legally described as PIN 17170-0018 (LT) (the "**Real Property**") and the Receiver's borrowing from The Toronto-Dominion Bank ("**TD**") in the principal amount of \$65,000 giving rise to the Receiver's Borrowings Charge, are hereby approved.

4. THIS COURT ORDERS that the receipts and disbursements of the Receiver, as set out in the First Report, are hereby approved.

Professional Costs

5. THIS COURT ORDERS that the fees and disbursements of the Receiver in the amount of \$85,836.11 including HST for the period from September 1, 2022 to March 31, 2023 (the "**Receiver's Costs**"), as set out in the First Report, are hereby approved.

6. THIS COURT ORDERS that the fees and disbursements of the Receiver's legal counsel, Fogler, Rubinoff LLP, in the total amount of \$39,648.70 including HST for the period from

April 7, 2022 to March 23, 2023 ("**Fogler's Costs**"), as set out in the First Report, are hereby approved.

Fee Accrual

7. THIS COURT ORDERS that the Receiver shall reserve or holdback funds from the sale proceeds realized on the completion of the Transaction, for the Receiver in the amount of \$30,000 plus HST and disbursements and for Receiver's counsel, Fogler, Rubinoff LLP, in the amount of \$25,000 plus HST and disbursements (the aggregate amount being, the "**Fee Accrual**") for the estimated professional fees and disbursements of the Receiver and its counsel to complete the Transaction, any post-closing matters and the administration of the receivership to the discharge of the Receiver, as described in the First Report.

Sealing Confidential Documents

8. THIS COURT ORDERS the sealing of the Confidential Appendices in the First Report, until completion of the Transaction or further Order of this Court.

The Funds

9. THIS COURT ORDERS AND DECLARES that the Funds defined or described in the First Report in the approximate amount of \$254,000 (the "**Funds**") constitute and are "Property" under the Receivership Order.

Distribution

10. THIS COURT ORDERS that after the completion of the sale Transaction of the Real Property, the payment of the Receiver's Costs, Fogler's Costs, the amount borrowed by the Receiver from TD as secured by the Receiver's Borrowings Charge, any amounts that constitute

priority payables or deemed trusts, and any property tax arrears in respect of the Real Property, and the retention of the Fee Accrual, the Receiver shall pay the net proceeds to TD, as first mortgagee of the Real Property.

Discharge

11. THIS COURT ORDERS that upon the Receiver filing a certificate of completion with this Court certifying that it has completed the activities described in the First Report, the Receiver shall be discharged as Receiver of the undertaking, property and assets of the Debtors, provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of msi Spergel inc. in its capacity as Receiver.

12. THIS COURT ORDERS AND DECLARES that upon the Receiver filing a certificate of completion with this Court certifying that it has completed the activities described in the First Report, msi Spergel inc. is hereby released and discharged from any and all liability that msi Spergel inc. now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of msi Spergel inc. while acting in its capacity as Receiver herein up to and including the discharge date as described in any of its reports to the Court, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, msi Spergel inc. is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

13. THIS COURT ORDERS that this Order is effective from the date on which it is made, and is enforceable without any need for entry and filing.

THE TORONTO-DOMINION BANK
Applicant

-and- **2580363 ONTARIO INC. and 2580361 ONTARIO INC.**
Respondents

Court File No. CV-22-0078521-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
HAMILTON

DISCHARGE ORDER

FOGLER, RUBINOFF LLP

Lawyers
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Tel: 416.941.8842
Fax: 416.941.8852

Lawyers for msi Spergel inc.,
the Receiver

TAB F

Court File No. ~~_____~~ CV-22-0078521-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
~~COMMERCIAL LIST~~

THE HONOURABLE) ~~WEEKDAY~~ DAY THURSDAY, THE #
JUSTICE) 27th DAY
) ~~DAY~~ OF ~~MONTH~~ APRIL, ~~20YR~~ 2023

B E T W E E N:

~~PLAINTIFF~~

Plaintiff

THE TORONTO-DOMINION BANK

Applicant

- and -
~~DEFENDANT~~

Defendant

2580363 ONTARIO INC. AND 2580361 ONTARIO INC.

Respondents

Respondent

DISCHARGE ORDER

THIS MOTION, made by ~~[RECEIVER'S NAME]~~ msi Spergel inc., in its capacity as the ~~Court-appointed~~ court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of ~~[Debtor]~~ (the "**Debtor**" 2580363 Ontario Inc. ("363") and 2580361 Ontario Inc. ("361")) (together, the "**Debtors**") pursuant to the Orders of the Honourable Justice MacNeil each dated June 2, 2022

and the Honourable Justice Parayeski dated October 4, 2022, of the Ontario Superior Court of Justice (collectively, the "Receivership Order"), for an order, among other relief:

1. approving the actions and activities of the Receiver as set out in the report of the Receiver dated ~~{DATE}~~ April 12, 2023 (the "First Report");
2. approving the fees and disbursements of the Receiver and its counsel;
3. approving the statement of receipts and disbursements of the Receiver;
4. ~~3-~~ approving the payment and distribution of the remaining net proceeds available in the estate of the ~~Debtor; and~~ Debtors;
5. approving the sealing of the Confidential Appendices to the First Report;
6. approving the Fee Accrual;
7. declaring the Funds to be "Property" under the Receivership Order;
8. ~~4-4-~~ discharging ~~{RECEIVER'S NAME}~~ msi Spergel inc. as Receiver of the undertaking, property and assets of the ~~Debtor~~ Debtors; and
9. ~~5-5-~~ releasing ~~{RECEIVER'S NAME}~~ msi Spergel inc. from any and all liability, as set out below in ~~paragraph 5 of~~ this Order},

was heard this day ~~at 330 University Avenue~~, by videoconference via Zoom in ~~Toronto~~ Hamilton, Ontario due to the COVID-19 pandemic.

ON READING the First Report, and the affidavits on behalf of the Receiver and its counsel as to fees and disbursements, included in the First Report (the "Fee Affidavits"), and on hearing the submissions of counsel for the Receiver, and those parties listed on the Counsel Slip or

Participant Information Form, no one else appearing although duly served ~~as evidenced by the Affidavit~~affidavit of [NAME] sworn [DATE] with the Receiver's Motion Record and First Report, as appears from the affidavit of service of Michelle Pham sworn April 17, 2023, filed~~;~~:

Service and Definitions

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS that capitalized terms used herein that are not otherwise defined shall have the meaning ascribed to them in the First Report.

Receiver's Actions and Activities

3. THIS COURT ORDERS that the First Report and the actions and activities of the Receiver as described in the First Report, including in respect of the real property owned by 361 and municipally known as 21 Augusta Street, Hamilton, Ontario and legally described as PIN 17170-0018 (LT) (the "Real Property") and the Receiver's borrowing from The Toronto-Dominion Bank ("TD") in the principal amount of \$65,000 giving rise to the Receiver's Borrowings Charge, are hereby approved.
4. ~~1-~~ THIS COURT ORDERS that the ~~activities~~ receipts and disbursements of the Receiver, as set out in the First Report, are hereby approved.

Professional Costs

5. ~~2-~~ THIS COURT ORDERS that the fees and disbursements of the Receiver ~~and its counsel~~ in the amount of \$85,836.11 including HST for the period from September 1, 2022 to

March 31, 2023 (the "Receiver's Costs"), as set out in the ~~Repor and the Fee Affidavits~~ First Report, are hereby approved.

6. ~~3-~~ THIS COURT ORDERS that, ~~after payment of~~ the fees and disbursements ~~herein approved, the Receiver shall pay the monies remaining in its hands to [NAME OF PARTY].~~ of the Receiver's legal counsel, Fogler, Rubinoff LLP, in the total amount of \$39,648.70 including HST for the period from April 7, 2022 to March 23, 2023 ("Fogler's Costs"), as set out in the First Report, are hereby approved.

Fee Accrual

7. THIS COURT ORDERS that the Receiver shall reserve or holdback funds from the sale proceeds realized on the completion of the Transaction, for the Receiver in the amount of \$30,000 plus HST and disbursements and for Receiver's counsel, Fogler, Rubinoff LLP, in the amount of \$25,000 plus HST and disbursements (the aggregate amount being, the "Fee Accrual") for the estimated professional fees and disbursements of the Receiver and its counsel to complete the Transaction, any post-closing matters and the administration of the receivership to the discharge of the Receiver, as described in the First Report.

Sealing Confidential Documents

8. THIS COURT ORDERS the sealing of the Confidential Appendices in the First Report, until completion of the Transaction or further Order of this Court.

The Funds

9. THIS COURT ORDERS AND DECLARES that the Funds defined or described in the First Report in the approximate amount of \$254,000 (the "Funds") constitute and are "Property" under the Receivership Order.

Distribution

10. THIS COURT ORDERS that after the completion of the sale Transaction of the Real Property, the payment of the Receiver's Costs, Fogler's Costs, the amount borrowed by the Receiver from TD as secured by the Receiver's Borrowings Charge, any amounts that constitute priority payables or deemed trusts, and any property tax arrears in respect of the Real Property, and the retention of the Fee Accrual, the Receiver shall pay the net proceeds to TD, as first mortgagee of the Real Property.

Discharge

~~4.11.~~ THIS COURT ORDERS that upon ~~payment of the amounts set out in paragraph 3 hereof and upon~~ the Receiver filing a certificate of completion with this Court certifying that it has completed the ~~other~~ activities described in the First Report], the Receiver shall be discharged as Receiver of the undertaking, property and assets of the ~~Debtor~~Debtors, provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of ~~[RECEIVER'S NAME]~~msi Spergel inc. in its capacity as Receiver.

~~5.12.~~ THIS COURT ORDERS AND DECLARES that ~~[RECEIVER'S NAME]~~upon the Receiver filing a certificate of completion with this Court certifying that it has completed the activities described in the First Report, msi Spergel inc. is hereby released and discharged from any and all liability that ~~[RECEIVER'S NAME]~~msi Spergel inc. now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of ~~[RECEIVER'S NAME]~~msi

Spergel inc. while acting in its capacity as Receiver herein up to and including the discharge date as described in any of its reports to the Court, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, ~~[RECEIVER'S NAME]~~ is msi Spergel inc. is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.†

13. THIS COURT ORDERS that this Order is effective from the date on which it is made, and is enforceable without any need for entry and filing.

THE TORONTO-DOMINION BANKApplicant-and-2580363 ONTARIO INC. and 2580361 ONTARIO INC.RespondentsCourt File No. CV-22-0078521-0000ONTARIO
SUPERIOR COURT OF JUSTICEPROCEEDING COMMENCED AT
HAMILTONDISCHARGE ORDERFOGLER, RUBINOFF LLPLawyers77 King Street WestSuite 3000, P.O. Box 95TD Centre North TowerToronto, ON M5K 1G8Vern W. DaRe (LSO# 32591E)vdare@foglers.comTel: 416.941.8842Fax: 416.941.8852Lawyers for msi Spergel inc.,
the Receiver

THE TORONTO-DOMINION BANK
Applicant

-and- **2580363 ONTARIO INC. and 2580361 ONTARIO INC.**
Respondents

Court File No. CV-22-0078521-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
HAMILTON

MOTION RECORD
(Returnable: April 27, 2023)

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