

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

BUSINESS DEVELOPMENT BANK OF CANADA

Applicant

- and -

1391 ONTARIO ST. INC.

Respondent

**MOTION RECORD  
(RETURNABLE JANUARY 27, 2026)**

**SimpsonWigle LAW LLP**  
1006 Skyview Drive, Suite 103  
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**Rosemary A. Fisher (LSO No. 32238T)**  
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Lawyers for msi Spergel Inc., in its capacity as  
Receiver of the assets, undertakings and  
properties of 1391 Ontario St. Inc.

TO: THE SERVICE LIST

## SERVICE LIST

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AND TO:	<p><b>1391 ONTARIO ST. INC.</b> 1 King Street West, 10<sup>th</sup> Floor Hamilton, ON L8P 1A4</p> <p><b>Thomas Dylan Suitor</b> Email: <a href="mailto:dylan@elevationrealty.ca">dylan@elevationrealty.ca</a></p> <p>Respondent</p>
AND TO:	<p><b>TDB RESTRUCTURING LIMITED</b> 11 King Street West, Suite 700 Toronto, ON M5H 4C7</p> <p><b>Jeffrey Berger, CPA, CA, CIRP, LIT</b> Tel: 647-726-0496 Email: <a href="mailto:jberger@tdbadvisory.ca">jberger@tdbadvisory.ca</a></p> <p>Bankruptcy Trustee of Thomas Dylan Suitor</p>
AND TO:	<p><b>FRED TAYAR &amp; ASSOCIATES PC</b> 65 Queen Street West, Suite 1200 Toronto, ON M5H 2M5</p> <p><b>Fred Tayar</b> Tel: 416-363-1800 ext. 200 Email: <a href="mailto:fred@fredtayar.com">fred@fredtayar.com</a></p> <p>Lawyers for TDB Restructuring Limited</p>

AND TO:	<p><b>THE FULLER LANDAU GROUP INC.</b>  151 Bloor Street West, 12<sup>th</sup> Floor  Toronto, ON M5S 1S4</p> <p><b>Gary Abrahamson, CPA, CA, CIRP, LIT</b>  Tel: 416-645-6524  Email: <a href="mailto:gabrahamson@fullerllp.com">gabrahamson@fullerllp.com</a></p> <p>Court-Appointed Receiver of The Lion's Share Group Inc.</p>
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AND TO:	<p><b>DEPARTMENT OF JUSTICE CANADA</b>  Ontario Regional Office  120 Adelaide Street West, Suite 400  Toronto, ON, M5H 1T1</p> <p>Email: <a href="mailto:AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca">AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca</a></p>
AND TO:	<p><b>HIS MAJESTY THE KING IN RIGHT OF CANADA</b>  As represented by Ministry of Finance  Legal Services Branch  Revenue Collections Branch – Insolvency Unit  33 King Street West, P.O. Box 627  Oshawa, ON, L1H 8H5</p>

	Email: <a href="mailto:insolvency.unit@ontario.ca">insolvency.unit@ontario.ca</a>
AND TO:	<b>THE CORPORATION OF THE CITY OF BURLINGTON</b> P.O. Box 5080 426 Brant Street Burlington, ON L7R 4G4  Tel: 905-335-7750 Email: <a href="mailto:taxownership@burlington.ca">taxownership@burlington.ca</a>

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**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

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# TAB A



**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

BUSINESS DEVELOPMENT BANK OF CANADA

Applicant

- and -

1391 ONTARIO ST. INC.

Respondents

**NOTICE OF MOTION  
(Returnable: January 27, 2026)**

msi Spergel Inc. ("**Spergel**" or the "**Receiver**") in its capacity as receiver, without security, of all the assets, undertakings and properties of 1391 Ontario St. Inc. ("**1391**" or the "**Debtor**"), will make a Motion before a Judge on Tuesday, the 27<sup>th</sup> day of January, 2026, at 10:00 a.m., or as soon after that time as the motion can be heard.

**PROPOSED METHOD OF HEARING:** The motion is to be heard by video conference,

at the following location:

45 Main Street East, Hamilton, ON L8N 2B7.

**THE MOTION IS FOR:**

1. An Order substantially in the form attached at [Tab C](#) of the within Motion Record,  
*inter alia*:

- (i) validating and abridging the time for service of the Notice of Motion and the Motion Record in the manner effected by the Receiver and an Order dispensing with service thereof on any party other than the parties served;
- (ii) approving the sale transaction (the “**Transaction**”) contemplated by an Agreement of Purchase and Sale (the “**Sale Agreement**”) between the Receiver, as Vendor, and Adakite Inc. In Trust for a corporation to be formed (“**Adakite**” or the “**Purchaser**”) dated December 2, 2025, in respect of the land and buildings located at 1391 Ontario Street, Burlington, Ontario, and legally described below, (the “**Real Property**”) owned by the Debtor and authorizing the Receiver to do all things and execute all documentation necessary to complete the transaction contemplated therein;

PT LTS 14, 15 & 16, PL 90, AS IN 854221, EXCEPT PT 2,  
20R5222, T/W 589292; BURLINGTON, PIN 07082-0016 (LT)

- (iii) vesting the right, title and interest of the Debtor in the Real Property in and to Adakite free and clear of encumbrances save and except the Permitted Encumbrances as defined in the Sale Agreement;

- (iv) sealing the Confidential Appendices 1 through 6 to the First Report of the Receiver dated January 7, 2026 (the “**First Report**”) until the earlier of the completion of the Transaction or further Order of this Honourable Court;
- (v) approving the First Report of the Receiver and the conduct, activities and actions to date;
- (vi) approving the Receiver's Interim Statement of Receipts and Disbursements as at November 30, 2025;
- (vii) approving the professional fees of the Receiver for the period up to and including November 30, 2025, in the amount of \$38,408.97, inclusive of HST and disbursements, as well as authorizing the Receiver to make payment of such amounts from the sale proceeds;
- (viii) approving the legal fees of SimpsonWigle LAW LLP (“**SW**”), lawyers for the Receiver, for the period up to and including January 7, 2026, in the amount of \$11,956.46, inclusive of HST and disbursements, as well as authorizing the Receiver to make payment of such amounts to SW from the sale proceeds;
- (ix) approving and authorizing the Receiver to hold back the sum of \$150,000.00 plus disbursements and HST pending completion of all matters and the Receiver's discharge;
- (x) authorizing and directing the Receiver to make the following distributions:

- a. to Business Development Bank of Canada ("**BDC**") for repayment of the Receiver's Borrowing in the amount of \$20,000.00, plus interest thereon, in accordance with the Receiver's Borrowing Certificate;
  - b. to the Corporation of the City of Burlington in the amount of \$74,444.49, for all property tax arrears; and,
  - c. the balance of any and all funds in the Debtor's estate to BDC on account of the Debtor's secured indebtedness to BDC;
- (xi) discharging msi Spergel Inc. as the Receiver of the assets, undertakings and properties of the Debtor; and
- (xii) such further Order as this Honourable Court deems just.

**THE GROUNDS FOR THIS MOTION ARE:**

**Background**

1. Pursuant to the Order of the Honourable Justice Bordin dated June 3, 2025 (the "**Appointment Order**"), Spergel was appointed as Receiver of the assets, undertakings and properties of the Debtor.

**Sale Process**

2. The Appointment Order empowered the Receiver to:

a) sell, convey, transfer, lease or assign the Real Property with the approval of the Court, and in each such case notice under section 31 of the Ontario *Mortgages Act* shall not be required; and,

b) to apply for any vesting order or other orders necessary to convey the Real Property to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Real Property.

3. The Receiver obtained full narrative appraisals of the Real Property from Antec Appraisal Group Inc. and Humphreys Appraisal Services Inc.

4. The Receiver also sought marketing and sales proposals from Avison Young and Cushman & Wakefield. Upon review of each proposal, the Receiver entered into an MLS Listing Agreement (the “**Listing Agreement**”) with Cushman & Wakefield (“**Cushman**”).

5. Cushman marketed the Real Property to obtain maximum interest and several offers to purchase, including listing the Real Property on MLS and reaching out to a number of contacts through email blasts.

6. As a result of the aforementioned marketing efforts, only one offer was received. With the support of BDC, the Receiver accepted the offer from Adakite.

7. Adakite’s offer is on an “as-is, where-is” basis and is conditional only upon the Purchaser being able to obtain an Approval and Vesting Order issued by the Court. The Sale Agreement is now only subject to Court approval.

8. The Receiver is of the view that the sales process was a fair and public process and was conducted in a commercially reasonable manner.

9. The Receiver is of the opinion that the terms and conditions contained within the Sale Agreement are commercially reasonable and that the purchase price represents market value for the Real Property.

10. The Receiver has consulted with the first mortgagee, BDC, relative to this Transaction and BDC supports the completion of same. Upon approval of the Transaction by this Honourable Court, it will close in accordance with the terms of the Sale Agreement.

#### **Secured, Priority and Other Creditors**

11. BDC holds a first mortgage over the Real Property with a principal balance in the amount of \$2,446,000.00.

12. As of May 1, 2025, the amount owing under the BDC mortgage was \$2,459,804.12.

13. The Receiver has obtained a tax certificate from the City of Burlington which confirms that as of January 7, 2026, there are outstanding realty taxes on the Real Property in the amount of \$74,444.49.

#### **Request for Protective Sealing Order**

14. The Receiver is of the view that a protective sealing order should issue in respect of the items in the Confidential Appendices. Each of these appendices contains

commercially sensitive information which could prejudice the stakeholders of the Debtor's estate in the event that the Transaction is not completed.

**Approval of the Receiver's Accounts and Interim Statement of Receipts and Disbursements**

15. The Appointment Order requires the Receiver and its legal counsel to pass its accounts from time to time.

16. The Receiver has properly incurred fees and disbursements during the period up to and including November 30, 2025 in the amount of \$38,408.97, inclusive of HST and disbursements.

17. The legal expense incurred by the Receiver for services provided by its legal counsel, SW, for the period up to and including January 7, 2026 in the amount of \$11,956.46, inclusive of HST and disbursements, has been properly incurred as detailed in the First Report.

18. The Receiver is of the view that all of the work set out in SW's accounts was carried out by its lawyers and clerks and was necessary and reasonable.

19. The Receiver seeks the approval of the Receiver's Fees and its counsel's fees and that the Receiver be authorized to pay the same.

20. The Receiver estimates that the costs to complete the Sale Transaction, if approved, and to complete the administration of the estate should not exceed \$150,000.00 plus disbursements and HST. As such, the Receiver is seeking approval to

hold back the aforesaid sum pending completion of all matters and the discharge of the Receiver (the “**Fee Accrual**”).

21. The Receiver seeks approval of the Receiver’s Interim Statement of Receipts and Disbursements as detailed in the First Report.

### **Receiver’s Borrowing and Proposed Distribution**

22. Pursuant to paragraph 21 of the Appointment Order, the Receiver borrowed funds from BDC in the amount of \$20,000.00 to fund its disbursements during the receivership.

23. A title search conducted with respect to the Real Property on January 7, 2026 indicates the following registrations on title in order of priority:

- a) 119980 being a By-Law registered January 25, 1961.
- b) 214355 being an Agreement registered November 25, 1966.
- c) 534022 being an Agreement registered January 7, 1981.
- d) 534023 being an Agreement registered January 7, 1981
- e) HR1943676 being a Transfer to 1391 Ontario St. Inc. registered January 13, 2023.
- f) HR1943677 being a Charge in favour of Business Development Bank of Canada in the amount of \$2,446,000, registered January 13, 2023.
- g) HR2068548 being an Application to register a Court Order in favour of TDB Restructuring Limited registered November 15, 2024.



24. After payment of the fees of the Receiver and the Receiver's counsel, the Receiver is proposing to make a distribution to BDC for repayment of the Receiver's Borrowing in the amount of \$20,000.00, plus interest thereon, and to the Corporation of the City of Burlington for property tax arrears, with the balance of any and all funds in the Debtor's estate to BDC, as the primary secured creditor.

### **Discharge of the Receiver**

25. In the event the Sale Transaction is approved by this Honourable Court, upon the closing of the Sale Transaction and the preparation and filing of final BIA notices, the Receiver will then file its discharge certificate.

26. Such grounds as described in the First Report of the Receiver dated January 7, 2026.

27. Section 101 of the *Courts of Justice Act*, R.S.O. 1990 c. C-43, as amended.

28. Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

1. [The First Report of the Receiver dated January 7, 2026 and the appendices annexed thereto;](#)
2. [Property sub search of 1391 Ontario Street, Burlington, Ontario;](#)

3. Such further and other evidence as counsel may adduce and this Honourable Court permit.

January 14, 2026

**SimpsonWigle LAW LLP**  
1006 Skyview Drive, Suite 103  
Burlington, ON L7P 0V1

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Lawyers for msi Spergel Inc., in its capacity as  
Receiver of the assets, undertakings and  
properties of 1391 Ontario St. Inc.

TO: THE SERVICE LIST APPENDED AS SCHEDULE "A"

## SCHEDULE “A” - SERVICE LIST

TO:	<b>MILLER THOMSON LLP</b> One London Place 255 Queens Avenue, Suite 2010 London, ON N6A 5R8  <b>Tony Van Klink</b> (LSO No. 29008M) Tel: 519-931-3509 Email: <a href="mailto:tvanklink@millerthomson.com">tvanklink@millerthomson.com</a>  Lawyers for the Applicant
AND TO:	<b>1391 ONTARIO ST. INC.</b> 1 King Street West, 10 <sup>th</sup> Floor Hamilton, ON L8P 1A4  <b>Thomas Dylan Suitor</b> Email: <a href="mailto:dylan@elevationrealty.ca">dylan@elevationrealty.ca</a>  Respondent
AND TO:	<b>TDB RESTRUCTURING LIMITED</b> 11 King Street West, Suite 700 Toronto, ON M5H 4C7  <b>Jeffrey Berger, CPA, CA, CIRP, LIT</b> Tel: 647-726-0496 Email: <a href="mailto:jberger@tdbadvisory.ca">jberger@tdbadvisory.ca</a>  Bankruptcy Trustee of Thomas Dylan Suitor
AND TO:	<b>FRED TAYAR &amp; ASSOCIATES PC</b> 65 Queen Street West, Suite 1200 Toronto, ON M5H 2M5  <b>Fred Tayar</b> Tel: 416-363-1800 ext. 200 Email: <a href="mailto:fred@fredtayar.com">fred@fredtayar.com</a>  Lawyers for TDB Restructuring Limited
AND TO:	<b>THE FULLER LANDAU GROUP INC.</b> 151 Bloor Street West, 12 <sup>th</sup> Floor Toronto, ON M5S 1S4

	<p><b>Gary Abrahamson, CPA, CA, CIRP, LIT</b>  Tel: 416-645-6524  Email: <a href="mailto:gabrahamson@fullerllp.com">gabrahamson@fullerllp.com</a></p> <p>Court-Appointed Receiver of The Lion's Share Group Inc.</p>
AND TO:	<p><b>NORTON ROSE FULBRIGHT CANADA LLP</b>  222 Bay Street, Suite 3000  Toronto, ON M5K 1E7</p> <p>Jennifer Stam  Tel: 416-202-6707  Email: <a href="mailto:Jennifer.stam@nortonrosefulbright.com">Jennifer.stam@nortonrosefulbright.com</a></p> <p>Lawyers for The Fuller Landau Group Inc.</p>
AND TO:	<p><b>OFFICE OF THE SUPERINTENDENT OF BANKRUPTCY</b>  151 Yonge Street 4<sup>th</sup> Floor  Toronto, ON, M5C 2W7</p> <p>Tel: 416-973-6441  Email: <a href="mailto:osbservice-bsfservice@ised-isde.gc.ca">osbservice-bsfservice@ised-isde.gc.ca</a></p>
AND TO:	<p><b>DEPARTMENT OF JUSTICE CANADA</b>  Ontario Regional Office  120 Adelaide Street West, Suite 400  Toronto, ON, M5H 1T1</p> <p>Email: <a href="mailto:AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca">AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca</a></p>
AND TO:	<p><b>HIS MAJESTY THE KING IN RIGHT OF CANADA</b>  As represented by Ministry of Finance  Legal Services Branch  Revenue Collections Branch – Insolvency Unit  33 King Street West, P.O. Box 627  Oshawa, ON, L1H 8H5</p> <p>Email: <a href="mailto:insolvency.unit@ontario.ca">insolvency.unit@ontario.ca</a></p>
AND TO:	<p><b>THE CORPORATION OF THE CITY OF BURLINGTON</b>  P.O. Box 5080  426 Brant Street  Burlington, ON L7R 4G4</p> <p>Tel: 905-335-7750  Email: <a href="mailto:taxownership@burlington.ca">taxownership@burlington.ca</a></p>

BUSINESS DEVELOPMENT BANK OF CANADA  
Applicant

-and- 1391 ONTARIO ST. INC.  
Respondent

Court File No. CV-25-00090112-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT HAMILTON

**NOTICE OF MOTION**

**SimpsonWigle LAW LLP**  
1006 Skyview Drive, Suite 103  
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**Rosemary A. Fisher (LSO# 32238T)**  
Email: fisherr@simpsonwigle.com  
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Lawyers for the Receiver, msi Spergel Inc.

# TAB B

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

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

**BUSINESS DEVELOPMENT BANK OF CANADA**

**Applicant**

**and**

**1391 ONTARIO ST. INC.**

**Respondent**

**FIRST REPORT OF MSI SPERGEL INC.  
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF  
1391 ONTARIO ST. INC.**

**JANUARY 7, 2026**

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## **APPENDICES**

1. Endorsement of Justice Bordin dated June 3, 2025
2. Receivership Order dated June 3, 2026
3. Signed Listing Agreement
4. MLS Data Information Form
5. Redacted copy of the Adakite APS
6. PPSA Search Report
7. Receiver's Fee Affidavit sworn January 5, 2026
8. Receiver's Counsel Fee Affidavit sworn January 7, 2026
9. Receiver's Interim Statement of Receipts and Disbursements
10. Receiver's Borrowing Certificate
11. Parcel Register for the Real Property
12. Security Opinion issued by Receiver's Counsel dated June 10, 2025

## **CONFIDENTIAL APPENDICES**

1. Appraisal Report from Antec Appraisal Group
2. Appraisal Report from Humphreys
3. Avison Young Listing Proposal
4. Cushman Wakefield Listing Proposal
5. Final Progress Reports issued by Cushman Wakefield
6. Unredacted Copy of the Adakite APS

## **I. APPOINTMENT AND BACKGROUND**

1. This report (the “**First Report**”) is filed by msi Spergel inc. (“**Spergel**”), in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”) of 1391 Ontario St. Inc. (“**1391**” or the “**Debtor**”).
2. 1391 is incorporated pursuant to the laws of the Province of Ontario having its registered office at 1 King Street West, 10<sup>th</sup> Floor, Hamilton, Ontario.
3. 1391 is the owner of the real property known municipally as 1391 Ontario Street, Burlington, Ontario and legally described as Part Lots 14,15 & 16, PL 90 as in 854221, except Part 2, 20R5222, T/W 589292 Burlington, (the “**Real Property**”). The Real Property consists of a former residential home, converted into a shared office facility, formerly occupied by commercial tenants but presently vacant.
4. On May 5, 2025, Business Development Bank of Canada (“**BDC**” or the “**Bank**”), a secured creditor of the Debtor, moved by way of an application in the Ontario Superior Court of Justice (the “**Court**”) for a Court order appointing Spergel as the Receiver of all of the assets, undertakings, and properties, including the Real Property (collectively, the “**Property**”) of the Debtor.
5. The Bank’s application was heard on June 3, 2025 at which time the Honourable Justice Bordin issued an Endorsement (the “**June 3rd Endorsement**”) and granted an Order appointing Spergel as Receiver of the Property of the Debtor (the “**Receivership Order**”). Attached to this First Report as **Appendices “1”** and “**2**”, respectively, are copies the June 3<sup>rd</sup> Endorsement and the Receivership Order.
6. Pursuant to the Receivership Order, the Receiver retained the services of Simpson Wigle Law LLP as the Receiver’s independent Counsel (the “**Receiver’s Counsel**” or “**SimpsonWigle**”)

## II. PURPOSE OF THIS FIRST REPORT AND DISCLAIMER

7. The purpose of this First Report is to advise the Court as to the steps taken by the Receiver to date in these proceedings and to seek Orders from the Court, including:
- a) providing the Court with an update in respect of the activities of the Receiver since the date of the Receivership Order;
  - b) approving this First Report and the actions and activities of the Receiver described herein and that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way the approval of the First Report;
  - c) approving the Receiver's Interim Statement of Receipts and Disbursements as at November 30, 2025;
  - d) approving an agreement of purchase and sale between the Receiver, as Vendor, and Adakite Inc. In Trust for a corporation to be formed ("**Adakite**" of the "**Purchaser**") dated December 2, 2025 (the "**Adakite APS**") and authorizing the Receiver to complete the transaction contemplated thereby (the "**Transaction**");
  - e) vesting in the Purchaser all of the Debtor's right, title and interest in and to the Purchased Assets (as defined in the Adakite APS ) free and clear of any claims and encumbrances (other than permitted encumbrances identified in the Adakite APS);
  - f) sealing the Confidential Appendices (as defined herein) to the First Report until the closing of the Transaction or further Order of this Court;
  - g) approving the fees and disbursements of the Receiver to and including, November 30, 2025, and payment of same;
  - h) approving the fees and disbursements of the Receiver's Counsel to and including January 7, 2026, and payment of same;
  - i) approving the Fee Accrual (as defined herein);

- j) approving the Proposed Distribution (as defined herein);
- k) effective upon filing of a certificate by the Receiver certifying that all outstanding matters to be attended to in connection with the receivership of the Debtor have been completed to the satisfaction of the Receiver, discharging Spergel as Receiver and granting certain ancillary relief in relation thereto;
- l) such further and other relief as counsel may request and this Honourable Court may permit.

*Disclaimer*

- 8. The Receiver will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction, or use of this First Report for any other purpose than intended.
- 9. In preparing this First Report, the Receiver has relied upon certain information found on site and/or provided to it by the management of the Debtor including, without limitation, past financial performance, and other financial information. The Receiver has not performed an audit or verification of such information for accuracy, completeness or compliance with Accounting Standards for Private Enterprises or International Financial Reporting Standards. Accordingly, the Receiver expresses no opinion or other forms of assurance with respect to such information. Future oriented financial information relied upon in this First Report is based on assumptions regarding future events, actual results achieved may vary from this information and these variations may be material.
- 10. All references to dollars in this First Report are in Canadian currency unless otherwise noted.

### III. RECEIVER'S ACTIVITIES

11. A copy of the Receivership Order was provided to the Debtor. In addition, the Receiver prepared its statutory Notice and Statement of the Receiver in accordance with subsections 245(1) and 246(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) and mailed same to all creditors known to the Receiver.
12. Since the effective date of its appointment on June 3, 2025, the Receiver directly or through the Receiver's Counsel attended to the following:
  - a) generally managing the Real Property;
  - b) filed all required reports under the BIA;
  - c) communicated with the Canada Revenue Agency (“**CRA**”);
  - d) arranged for liability insurance coverage for the Real Property;
  - e) arranged for regular site inspections of the Real Property as required by the insurer;
  - f) arranged for the registration of the Receivership Order on the title to the Real Property
  - g) arranged for two fair market value appraisals of the Real Property;
  - h) opened a dedicated trust account for the receivership entity;
  - i) arranged for funding from the Bank;
  - j) requested and received sales and marketing proposals from two commercial real estate brokerages;
  - k) entered into an MLS listing agreement with Cushman Wakefield (the “**Listing Broker**”) and instructed the Listing Broker to commence a fulsome sales and marketing process; and
  - l) finalizing an Agreement of Purchase and Sale for the Real Property, conditional only upon approval of this Honourable Court.

#### IV. THE SALE PROCESS WITH RESPECT TO THE REAL PROPERTY

13. Pursuant to the terms of the Receivership Order, the Receiver is authorized 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. The sole asset of the Debtor is the Real Property.
14. The Receiver engaged the services of Antec Appraisal Group (“**Antec**”) and Humphreys Appraisal Services Inc. (“**Humphreys**”) to attend at and conduct full narrative appraisals of the Real Property. Attached to this First Report as **Confidential Appendices “1”** and **“2”**, respectively, are copies of the Antec and Humphreys’ appraisals.
15. In addition to the above-noted appraisals, the Receiver requested and obtained sales and marketing proposals from Avison Young (“**Avison**”) and Cushman Wakefield (“**Cushman**”). Attached to this First Report as **Confidential Appendices “3”** and **“4”**, respectively are copies of the Avison and Cushman sales and marketing proposals.
16. The Receiver entered into an MLS Listing Agreement with Cushman as the commission structure was commercially reasonable and the skill set of the brokerage would garner optimum recovery. Attached to the First report as **Appendices “3”** and **“4”**, respectively are copies of the Signed Listing Agreement and MLS Data Information Form. The Listing Agreement provides that all offers are subject to the approval of the Court.
17. Cushman widely marketed the Real Property to obtain maximum interest and several offers to purchase. This included listing the Real Property on MLS and reaching out to over 626 contacts through 12 separate email blasts. This resulted in 22 interested parties making enquiries and 4 parties executing Confidentiality Agreements, and accessing the data room for the Property and a number of interested parties touring the Real Property. Attached to this First Report as

**Confidential Appendix “5”** is a copy of the Final Progress Reports issued by Cushman dated January 7, 2026.

18. As a result of the marketing efforts described above, only one offer was received.
19. On the basis of the marketing efforts described above and with the support of the Bank, the Receiver accepted the Adakite Offer.
20. The Adakite Offer is on an “as-is, where-is” basis, conditional only upon the Purchaser being able to obtain an Approval and Vesting Order issued by the Court. Attached to this First Report as **Appendix “5”** is a redacted copy of the Adakite APS and the Amendment to Change the Buyer’s Name. Attached to this First Report as **Confidential Appendix 6”** is an unredacted copy of the Adakite APS and the Amendment to Change the Buyer’s name.
21. The Receiver is of the view that the sales process was one that resulted in the best price in these circumstances, considered the interests of all parties, was a fair and public process and was conducted in a commercially reasonable manner.
22. The Receiver is of the view that the market was extensively canvassed pursuant to Avison’s professional, and industry standard marketing efforts as detailed above and as provided for in the Avison sales and marketing proposal. Further, the Receiver is of the opinion that the efforts of Avison through the listing of the Real Property on MLS and Avison’s internal and external network have provided sufficient exposure of the Real Property to the market.
23. It is the opinion of the Receiver that the terms and conditions contained within the Adakite APS are commercially reasonable in all respects and that the purchase price in the Adakite APS is at market value for the Real Property and is the best outcome to the receivership estate in the circumstances.
24. BDC has been consulted with respect to the Transaction and supports the completion of same as well as the relief sought by the Receiver within this motion.
25. The Receiver recommends that the Court approve the Transaction.



## **V. SECURED, PRIORITY AND OTHER CREDITORS**

26. BDC holds a first mortgage (the “**BDC Mortgage**”) over the Real Property having a principal balance in the amount of \$2,446,000.
27. As of May 1, 2025, the amount owing under the BDC Mortgage was \$2,459,804.12 with costs and interest accruing.<sup>1</sup>
28. Attached to this First Report as **Appendix “6”** is a copy of a search of registrations against 1391 under the *Personal Property Security Act* (“**PPSA**”). As at the date of this First Report, BDC is the only registrant.
29. The Receiver has obtained a tax certificate from the City of Burlington which confirms that as of January 7, 2026, there are outstanding realty taxes on the Real Property in the amount of \$74,444.49. If the Transaction is approved and completed, the outstanding realty taxes will be paid from the sale proceeds.

## **VI. REQUEST FOR A SEALING ORDER**

30. The Receiver is seeking a sealing order in respect of the Confidential Appendices to this First Report as they each contain commercially sensitive information, the release of which prior to completion of the Transaction would be prejudicial to the stakeholders of the Debtor’s estate. The requested sealing of the Confidential Appendices is for a temporary period, until the earlier of the completion of the Transaction or further Order of this Court.

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<sup>1</sup> Affidavit of Gianna Torrelli filed in support of the Bank’s Application for the appointment of a Receiver

## **VII. PROFESSIONAL FEES AND DISBURSEMENTS**

32. Attached to this First Report as **Appendix “7”** is the Affidavit of Philip Gennis sworn January 5, 2026, (the “**Receiver’s Fee Affidavit**”) which incorporates by reference a copy of the Receiver’s time dockets pertaining to the receivership of 1391 to and including November 30, 2025 in the amount of \$38,408.97 inclusive of disbursements and HST. This represents a total of 77.05 hours at an average hourly rate of \$440.92 excluding HST.
33. Attached hereto as **Appendix “8”** to this First Report is the Affidavit of Rosemary Fisher sworn January 7, 2026, (the “**Receiver’s Counsel Fee Affidavit**”) which incorporates by reference a copy of the time dockets of the Receiver’s Counsel for the period to and including January 7, 2026, in the amount of \$11,956.46 inclusive of disbursements and HST.
34. The Receiver has reviewed the accounts of the Receiver’s Counsel and is of the view that all the work set out in these accounts was carried out and was necessary, that the hourly rates of the lawyers who worked on this matter were reasonable in light of the services required and that the services were carried out by lawyers with the appropriate level of experience.
35. Provided there is no opposition to the relief sought in this First Report and that such relief is granted, the Receiver estimates that the costs to complete the Transaction, if approved, and complete the administration of the estate should not exceed \$150,000.00 plus disbursements and HST and as such the Receiver is seeking approval to hold back this sum pending completion of all matters and the Receiver’s discharge (the “**Fee Accrual**”).

## **VIII. RECEIVER’S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS**

36. Attached hereto as **Appendix “9”** is a copy of the Interim Statement of Receipts and Disbursements of the Receiver as of November 30, 2025.

## **IX. RECEIVER'S BORROWING AND PROPOSED DISTRIBUTION**

37. Pursuant to paragraph 21 of the Receivership Order, the Receiver borrowed funds from the Bank in the amount of \$20,000.00 (the “**Receiver’s Borrowing**”) to fund its disbursements during the receivership. Attached to this First Report as **Appendix “10”** is a copy of the Receiver’s Borrowing Certificate in the amount of \$20,000.
38. Further pursuant to paragraph 21 of the Receivership Order, the issuance of the Receiver’s Certificate has the effect of creating a charge on the Property, by way of a fixed and specific charge as security for the repayment of the monies borrowed, together with interest and charges thereon, in priority to all statutory interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person (as defined in the Receivership Order) over the property of the Debtor in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person (as defined in the Receivership Order) but subordinate to the Receiver’s Charge (as defined in the Receivership Order) and the charges set out in subsections 14.06(7), 81.4(4) and 81.6(2) of the BIA.
39. A title search conducted with respect to the Real Property shows the following registrations on title in order of priority:
1. 119980 being a By-Law registered January 25, 1961.
  2. 214355 being an Agreement registered November 25, 1966.
  3. 534022 being an Agreement registered January 7, 1981.
  4. 534023 being an Agreement registered January 7, 1981
  5. HR1943676 being a Transfer to 1391 Ontario St. Inc. registered January 13, 2023.
  6. HR1943677 being a Charge in favour of Business Development Bank of Canada in the amount of \$2,446,000, registered January 13, 2023.

7. HR2058879 being a Construction Lien in favour of 1000660443 Ontario Inc. in the amount of \$77,574, registered September 24, 2024.
8. HR2068548 being an Application to register a Court Order in favour of TDB Restructuring Limited registered November 15, 2024.
9. HR2084512 being a Certificate of Action in favour of 1000660443 Ontario Inc., registered February 7, 2025.
40. Attached to this First Report as **Appendix “11”** is a copy of the title abstract with respect to the Real Property.
41. Attached to this First Report as **Appendix “12”** is the security opinion issued by Simpson Wigle Law LLP dated June 10, 2025, providing its opinion that the security comprised of the first mortgage held by the Bank is valid and enforceable in accordance with its terms.
42. The Receiver has concluded that the first mortgage held by BDC is a senior charge over the Real Property subject to the claims under the Receivership Order.
43. The Receiver has not been provided with any claims from Canada Revenue Agency nor from the Wage Earner Protection Plan program.
44. On the basis of the foregoing, the Receiver is proposing to make a distribution (after payment of the fees of the Receiver and the Receiver’s Counsel outlined in this First Report, including the Fee Accrual) as follows (the “**Proposed Distribution**”):
  - a) to BDC for repayment of the Receiver’s Borrowing in the amount of \$20,000.00 plus interest thereon in accordance with the Receiver’s Borrowing Certificate;
  - b) to The Corporation of the City of Burlington for all property tax arrears;
  - c) balance of any and all funds in the Debtor’s estate to BDC on account of the Debtor’s secured indebtedness to BDC. It is anticipated that BDC will suffer a shortfall, and accordingly there will be no funds available for distribution to any other stakeholders.

## **X. DISCHARGE OF THE RECEIVER**

44. In the event that the Order approving the sale of the Real Property is granted by the Court, the Receiver proposes to attend to the matters listed below:
- a. closing the Transaction;
  - b. payment of real estate commission;
  - c. preparing and filing of the Receiver's closing certificate provided for in the Sale Approval and Vesting Order sought from this Honourable Court;
  - d. preparing and filing of final BIA notices; and
  - e. preparing and filing of the Receiver's discharge certificate provided for in the Ancillary Order sought from this Honourable Court.
45. The Receiver seeks an Order from the Court approving its activities and conduct described in this First Report and upon the Receiver filing a Certificate with the Court confirming that it has completed the administration of these receivership proceedings, that Spergel be discharged and released from any and all liability that it has now or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Spergel while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part.

## **XI. RECOMMENDATION**

46. Based on the foregoing, the Receiver respectfully recommends that the Court make Orders granting the relief detailed in Paragraph 7 of this First Report.

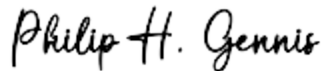
All of which is respectfully submitted.

Dated at Toronto, this 7<sup>th</sup> day of January, 2026.

**msi Spergel inc.**

solely in its capacity as Court-appointed  
Receiver of 1391 Ontario Street Inc.  
and not in any corporate  
or personal capacities

Per:

A handwritten signature in black ink that reads "Philip H. Gennis". The signature is written in a cursive, flowing style.

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Philip H. Gennis, JD., CIRP., LIT  
Licensed Insolvency Trustee

# APPENDIX 1

**Superior Court of Justice  
HAMILTON**

**Civil Endorsement Sheet/  
Page d'inscription**

**DATE: 06/03/2025**

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**Applicant/ Moving Party:** Business Development Bank of Canada  
**Counsel:** T. Van Klink

**Respondent:** No one appearing

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**Motion/Application heard by Videoconference.**

The plaintiff seeks the appointment of a receiver without security of the real property owned by the respondent under 243 of the BIA and s. 101 of the CJA. The defendants were served with the notice the application record. No responding materials have been filed. No one appeared for the respondent.

The plaintiff granted credit facilities to the defendants. The defendant corporations have been in default since November 2024. Municipal taxes are in arrears. A construction lien has been registered on title. The principle of the debtor has been adjudged bankrupt. An interim receivership order has been made against the principle of the debtor. This order affects the groups of companies with which he is involved.

Security for the loan was given in the form of a mortgage over the subject property. The standard charge terms provide that upon the occurrence of an event of default, the applicant may commence proceedings for the appointment of a receiver.

Notice of default was issued. The plaintiff has made formal written demand. Notice of Intention to Enforce Security has been issued. The defendants owe the plaintiff almost \$2.5 million. There are multiple claims affecting the subject property. The proposed receiver consents to the appointment.

The security granted by the respondent to the plaintiff allows for the appointment of a receiver over the property of the debtors upon default. In such circumstances the



burden on the plaintiff is relaxed as the plaintiff is merely seeking to enforce a term of an agreement between the parties. The appointment of a receiver is less extraordinary when dealing with default under a mortgage.

The plaintiff's materials satisfy me, that the respondent is insolvent and that having regard to all the circumstances but in particular the nature of the property and the rights and interest of all parties in relation thereto that it is appropriate and just and convenient to appoint a receiver.

Order to go in accordance with the draft order at pages A191-A208 of the Case Centre master bundle.

A handwritten signature in black ink, appearing to be 'MBJ', is positioned above a horizontal line.

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**BORDIN J.**

# APPENDIX 2

Court File No. CV-25-00090112-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE

)

TUESDAY, THE 3<sup>RD</sup>

JUSTICE BORDIN

)

DAY OF JUNE, 2025

)



**BUSINESS DEVELOPMENT BANK OF CANADA**

**Applicant**

- and -

**1391 ONTARIO ST. INC.**

**Respondent**

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

**ORDER  
(Appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "*BIA*") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. c-43, as amended (the "*CJA*") appointing msi Spergel Inc. as receiver and manager (in such capacities, the "Receiver") without security, of the real property described on Schedule A to this Order (the "Real Property") owned by the respondent, 1391 Ontario Street Inc. (the "Debtor"), was heard this day at 45 Main Street East, Hamilton, Ontario, by videoconference.

ON READING the affidavit of Gianna Torrelli sworn May 5, 2025 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant and such other parties as listed on the

participant information form, no one appearing for any other party on the service list although duly served as appears from the affidavits of service, filed, and on reading the consent of msi Spergel Inc. to act as the Receiver.

## **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated, as necessary, 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 the Real Property, 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, rents, 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

engaging of independent security personnel, and the placement of such insurance coverage as may be necessary or desirable;

- (c) 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;
- (d) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (e) 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 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;
- (f) 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;

- - -

- (g) to sell, convey, transfer, lease or assign the Property with the approval of the Court and in each such case notice under section 31 of the Ontario *Mortgages Act* shall not be required;
- (h) to apply for any vesting order or other orders necessary to convey the Property to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (i) 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;
- (j) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (k) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (l) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for the Property;
- (m) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have in respect of the Property; and

- (n) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. THIS COURT ORDERS that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the Property, 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.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

7. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.



### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

8. THIS COURT ORDERS that no Proceeding affecting 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 affecting the Property are hereby stayed and suspended pending further Order of this Court.

### **NO EXERCISE OF RIGHTS OR REMEDIES**

9. THIS COURT ORDERS that all rights and remedies affecting the Property or against the the Receiver, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this paragraph shall (i) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (ii) prevent the filing of any registration to preserve or perfect a security interest, or (iii) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH THE RECEIVER**

10. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

### **CONTINUATION OF SERVICES**

11. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor

are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

### **RECEIVER TO HOLD FUNDS**

12. 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**

13. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor. 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**

14. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

15. 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**

16. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

### **RECEIVER'S ACCOUNTS**

17. 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.

18. 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 Ontario Superior Court of Justice.

19. 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**

20. 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 \$250,000 (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.

21. 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.

22. 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.

23. 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**

24. 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.

25. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true

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

## **GENERAL**

26. 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.

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

28. 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.

29. 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.

30. THIS COURT ORDERS that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

31. 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.

32. THIS COURT ORDERS that this Order is effective from today's date and is enforceable without the need for entry or filing.

Issued and entered electronically by

**Rhondda  
Margetts**

Digitally signed by  
Rhondda Margetts  
Date: 2025.06.03  
14:56:28 -04'00'

Local Registrar  
45 Main St East  
Hamilton, ON  
L8N 2B7

"on behalf of Justice Bordin"



**Schedule “A”**

(Real Property)

a) Property Identifier Number 07082-0016, LRO # 20

PT LTS 14, 15 & 16, PL 90, AS IN 854221, EXCEPT PT 2, 20R5222, T/W 589292;  
BURLINGTON and municipally known as 1391 Ontario Street, Burlington, Ontario.

**Schedule "B"**

**RECEIVER CERTIFICATE**

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

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

1. THIS IS TO CERTIFY that msi Spergel Inc., the receiver (the "Receiver") of the real property located at 1391 Ontario Street, Burlington, Ontario and the proceeds thereof (the "Property") appointed by Order of the Ontario Superior Court of Justice (the "Court") dated the 3rd day of June, 2025 (the "Order") made in an action having Court file number CV-25-00090112-0000, 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 \$250,000 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 monthly not in advance on the last day of each month after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the floating base rate of Business Development of Canada 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:

BUSINESS DEVELOPMENT  
BANK OF CANADA      and      1391 ONTARIO STREET INC.

Court File No.: CV-25-00090112-0000

Applicant

Respondent

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at HAMILTON

**RECEIVERSHIP APPOINTMENT ORDER**

**MILLER THOMSON LLP**

One London Place  
255 Queens Avenue, Suite 2010  
London, ON Canada N6A 5R8

**Tony Van Klink** LSO#: 29008M

tvanklink@millerthomson.com

Tel: 519.931.3509

Fax: 519.858.8511

**Lawyers for the Applicant,**  
**Business Development Bank of Canada**

# APPENDIX 3



# Listing Agreement - Commercial

## Seller Designated Representation Agreement

### Authority to Offer for Sale

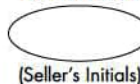
This is a Multiple Listing Service® Agreement



OR

Exclusive Listing Agreement

EXCLUSIVE



**BETWEEN:**

**BROKERAGE:**

Cushman & Wakefield ULC.

1 Prologis Blvd, Suite 300 Mississauga ON L5W 0G2 (the "Listing Brokerage") Tel. No. 905-568-9500

**SELLER:** MSI Spergel Inc. in its capacity as court-appointed receiver of 1391 Ontario St. Inc. (the "Seller")

**DESIGNATED REPRESENTATIVE(S):** Michael Yull  
(Name of Salesperson/Broker/Broker of Record)

The Designated Representative will be providing services and representation to the Seller and the Brokerage provides services but not representation.

In consideration of the Listing Brokerage listing the real property for sale known as 1391 Ontario Burlington ON L7S 1G2 (the "Property")

the Seller hereby gives the Listing Brokerage the **exclusive and irrevocable** right to act as the Seller's agent,

commencing at 12:00 on the 17 day of July, 2025  
(a.m./p.m.)

and expiring at 11:59 p.m. on the 17 day of November, 2025 (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 Trust in Real Estate Services Act, 2002 (TRESA), the Listing Brokerage must obtain the Seller's initials. }

MM  
(Seller's Initials)

to offer the Property for sale at a price of: Dollars (CDN\$) 2,995,000.00  
Two Million Nine Hundred Ninety-Five Thousand Dollars

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.

MM  
(Seller's Initials)

**Schedule A**, attached hereto forms part of this Agreement, of which **Schedule A** sets out the details with respect to the services, confidentiality and representation of the Brokerage and Designated Representative.

**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. "Self-represented assistance" shall mean assistance provided to a self-represented party. 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 Trust in Real Estate Services 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:

(i) the Seller agrees to pay the Listing Brokerage a commission of 3% of the sale price of the Property or 2% of the sale price if Listing Team represents the Purchaser

("total commission") for any valid offer to purchase the Property from any source whatsoever obtained during the Listing Period, as may be acceptable to the Seller.

(ii) 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 1.5% of the sale price of the Property or

Payment to the co-operating brokerage shall be made by the Listing Brokerage out of the total commission calculated above.

The Seller further agrees that the total commission calculated above shall be payable to the Listing Brokerage even if there is no co-operating 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 90 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.

**INITIALS OF LISTING BROKERAGE:**

BD

**INITIALS OF SELLER(S):**

MM



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.

~~The Seller further agrees to pay such commission as calculated above even if the transaction contemplated by an agreement to purchase agreed to or accepted by the Seller or anyone on the Seller's behalf is not completed, if such non-completion is owing or attributable to the Seller's default or neglect, said commission to be payable on the date set for completion of the purchase of the Property.~~

Any deposit in respect of any agreement where the transaction has been completed shall first be applied to reduce the commission payable. Should such amounts paid to the Listing Brokerage from the deposit or by the Seller's solicitor not be sufficient, the Seller shall be liable to pay to the Listing Brokerage on demand, any deficiency in commission and taxes owing on such commission.

In the event the buyer fails to complete the purchase and the deposit or any part thereof becomes forfeited, awarded, directed or released to the Seller, the Seller then authorizes the Listing Brokerage to retain as commission for services rendered, fifty (50%) per cent of the amount of the said deposit forfeited, awarded, directed or released to the Seller (but not to exceed the commission payable had a sale been consummated) and to pay the balance of the deposit to the Seller.

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 relationships, including information on Seller Representation, Sub-agency, Buyer Representation, Multiple Representation and Self-Represented Party assistance. 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 listing other properties that may be similar to the Seller's Property without any claim by the Seller of conflict of interest. ~~The Seller hereby appoints the Listing Brokerage as the Seller's agent for the purpose of giving and receiving notices pursuant to any offer or agreement to purchase the Property.~~ 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, said commission to be disbursed in accordance with the Commission Trust Agreement.

**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 require the Seller's written consent to represent both the Seller and the buyer for the transaction. The Seller understands 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.

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;
- the Listing Brokerage shall not disclose to the buyer the terms of any other offer, unless otherwise directed in writing by the Seller; and
- the Listing Brokerage shall not disclose to the Seller the terms of any other offer by the buyer.

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.

~~The Brokerage shall not be appointed or authorized to be agent for either the Seller or the buyer for the purpose of giving and receiving notices where the Brokerage represents both the Seller and the buyer (multiple representation) or where the buyer or the seller is a self-represented party.~~

**MULTIPLE REPRESENTATION AND DESIGNATED REPRESENTATION:** The Seller understands and acknowledges where both the Seller and buyer are represented by a designated representative of the Listing Brokerage, multiple representation will not result, unless that designated representative represents more than one client in the same trade, and will require consent in writing for such multiple representation. In the event of multiple representation and designated representation, the Brokerage duty of disclosure to both the seller and the buyer client is as more particularly set out in the agreement with the respective seller or buyer.

- 4. FINDERS FEES:** ~~The Seller acknowledges that the Brokerage may be receiving a finder's fee, reward and/or referral incentive, and the Seller consents to any such benefit being received and retained by the Brokerage in addition to the Commission as described above.~~

- 5. REFERRAL OF ENQUIRIES:** The Seller agrees that during the Listing Period, the Seller shall advise the Listing Brokerage immediately of all enquiries from any source whatsoever, and all offers to purchase submitted to the Seller shall be immediately submitted to the Listing Brokerage by the Seller before the Seller accepts or rejects the same. If any enquiry during the Listing Period results in the Seller accepting a valid offer to purchase during the Listing Period or within the Holdover Period after the expiration of the Listing Period described above, the Seller agrees to pay the Listing Brokerage the amount of Commission set out above, payable within five (5) days following the Listing Brokerage's written demand therefor.

- 6. MARKETING:** The Seller agrees to allow the Listing Brokerage to show and permit prospective buyers to fully inspect the Property during reasonable hours and the Seller gives the Listing Brokerage the sole and exclusive right to place "For Sale" and "Sold" sign(s) upon the Property. The Seller consents to the Listing Brokerage including information in advertising that may identify the Property. The Seller further agrees that the Listing Brokerage shall have sole and exclusive authority to make all advertising decisions relating to the marketing of the Property for sale during the Listing Period. The Seller agrees that the Listing Brokerage will not be held liable in any manner whatsoever for any acts or omissions with respect to advertising by the Listing Brokerage or any other party, other than by the Listing Brokerage's gross negligence or wilful act.

- 7. WARRANTY:** The Seller represents and warrants that the Seller has the exclusive authority and power to execute this Authority to offer the Property for sale and that the Seller has informed the Listing Brokerage of any third party interests or claims on the Property such as rights of first refusal, options, easements, mortgages, encumbrances or otherwise concerning the Property, which may affect the sale of the Property.

- 8. INDEMNIFICATION AND INSURANCE:** ~~The Seller will not hold the Listing Brokerage and representatives of the Brokerage responsible for any loss or damage to the Property or contents occurring during the term of this Agreement caused by the Listing Brokerage or anyone else by any means, including theft, fire or vandalism, other than by the Listing Brokerage's gross negligence or wilful act. The Seller agrees to indemnify and save harmless the Listing Brokerage and representatives of the Brokerage and any co-operating brokerage from any liability, claim, loss, cost, damage or injury, including but not limited to loss of the Commission payable under this Agreement, caused or contributed to by the breach of any warranty or representation made by the Seller in this Agreement and, if attached, the accompanying data form. The Seller warrants the Property is insured, including personal liability insurance against any claims or lawsuits resulting from bodily injury or property damage to others caused in any way on or at the Property and the Seller indemnifies the Brokerage and all of its employees, representatives, salespersons and brokers (Listing Brokerage) and any co-operating brokerage and all of its employees, representatives, salespersons and brokers (co-operating brokerage) for and against any claims against the Listing Brokerage or co-operating brokerage made by anyone who attends or visits the Property.~~

- 9. ENVIRONMENTAL INDEMNIFICATION:** ~~The Seller agrees to indemnify and save harmless the Listing Brokerage and representatives of the Brokerage and any co-operating brokerage from any liability, claim, loss, cost, damage or injury as a result of the Property being affected by any contaminants or environmental problems.~~

- 10. FAMILY LAW ACT:** ~~The Seller hereby warrants that spousal consent is not necessary under the provisions of the Family Law Act, R.S.O. 1990, unless the spouse of the Seller has executed the consent hereinafter provided.~~


- 11. VERIFICATION OF INFORMATION:** The Seller authorizes the Listing Brokerage to obtain any information from any regulatory authorities, governments, mortgagees or others affecting the Property and the Seller agrees to execute and deliver such further authorizations in this regard as may be reasonably required. The Seller hereby appoints the Listing Brokerage or the Listing Brokerage's authorized representative as the Seller's attorney to execute such documentation as may be necessary to effect obtaining any information as aforesaid. The Seller hereby authorizes, instructs and directs the above noted regulatory authorities, governments, mortgagees or others to release any and all information to the Listing Brokerage.

INITIALS OF LISTING BROKERAGE:

  
BD

INITIALS OF SELLER(S):

  
MM

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**12. USE AND DISTRIBUTION OF INFORMATION:** The Seller consents to the collection, use and disclosure of personal information by the Brokerage for the purpose of listing and marketing the Property including, but not limited to: listing and advertising the Property using any medium including the Internet; disclosing Property information to prospective buyers, brokerages, salespersons and others who may assist in the sale of the Property; such other use of the Seller's personal information as is consistent with listing and marketing of the Property. The Seller consents, if this is an MLS® Listing, to placement of the listing information and sales information by the Brokerage into the database(s) of the MLS® System of the appropriate Board, and to the posting of any documents and other information (including, without limitation, photographs, images, graphics, audio and video recordings, virtual tours, drawings, floor plans, architectural designs, artistic renderings, surveys and listing descriptions) provided by or on behalf of the Seller into the database(s) of the MLS® System of the appropriate Board. ~~The Seller hereby indemnifies and saves harmless the Brokerage and/or any of its employees, servants, brokers or sales representatives from any and all claims, liabilities, suits, actions, losses, costs and legal fees caused by, or arising out of, or resulting from the posting of any documents or other information (including, without limitation, photographs, images, graphics, audio and video recordings, virtual tours, drawings, floor plans, architectural designs, artistic renderings, surveys and listing descriptions) as aforesaid.~~ The Seller acknowledges that the database, within the board's MLS® System is the property of the real estate board(s) and can be licensed, resold, or otherwise dealt with by the board(s). The Seller further acknowledges that the real estate board(s) may, during the term of the listing and thereafter, distribute the information in the database, within the board's MLS® System to any persons authorized to use such service which may include other brokerages, government departments, appraisers, municipal organizations and others; market the Property, at its option, in any medium, including electronic media; during the term of the listing and thereafter, compile, retain and publish any statistics including historical data within the board's MLS® System and retain, reproduce and display photographs, images, graphics, audio and video recordings, virtual tours, drawings, floor plans, architectural designs, artistic renderings, surveys and listing descriptions which may be used by board members to conduct comparative analyses; and make such other use of the information as the Brokerage and/or real estate board(s) deem appropriate, in connection with the listing, marketing and selling of real estate during the term of the listing and thereafter. The Seller acknowledges that the information, personal or otherwise ("information"), provided to the real estate board or association may be stored on databases located outside of Canada, in which case the information would be subject to the laws of the jurisdiction in which the information is located.

In the event that this Agreement expires or is cancelled or otherwise terminated and the Property is not sold, the Seller, by initialling:

consent to allow other real estate board members to contact the Seller after expiration or other termination of this Agreement to discuss listing or otherwise marketing the Property.

Does Does Not

- 13. SUCCESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms of this Agreement.
- 14. CONFLICT OR DISCREPANCY:** If there is any conflict or discrepancy between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement, including any Schedule attached hereto, shall constitute the entire Authority from the Seller to the Listing Brokerage. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein.
- 15. ELECTRONIC COMMUNICATION:** This Agreement and any agreements, notices or other communications contemplated thereby may be transmitted by means of electronic systems, in which case signatures shall be deemed to be original. The transmission of this Agreement by the Seller by electronic means shall be deemed to confirm the Seller has retained a true copy of the Agreement.
- 16. ELECTRONIC SIGNATURES:** If this Agreement has been signed with an electronic signature the parties hereto consent and agree to the use of such electronic signature with respect to this Agreement pursuant to the *Electronic Commerce Act, 2000*, S.O. 2000, c17 as amended from time to time.

**THE LISTING BROKERAGE AND THE DESIGNATED REPRESENTATIVE OF THE BROKERAGE AGREE TO MARKET THE PROPERTY ON BEHALF OF THE SELLER AND THE DESIGNATED REPRESENTATIVE OF THE BROKERAGE SHALL REPRESENT THE SELLER IN AN ENDEAVOUR TO OBTAIN A VALID OFFER TO PURCHASE THE PROPERTY ON THE TERMS SET OUT IN THIS AGREEMENT OR ON SUCH OTHER TERMS SATISFACTORY TO THE SELLER.**

(Authorized to bind the Listing Brokerage) Brad Dykeman (Date) (Name of Person Signing)

**THIS AGREEMENT HAS BEEN READ AND FULLY UNDERSTOOD BY ME, I ACCEPT THE TERMS OF THIS AGREEMENT AND I ACKNOWLEDGE ON THIS DATE I HAVE SIGNED UNDER SEAL** Any representations contained herein or as shown on any accompanying data form respecting the Property are true to the best of my knowledge, information and belief.

SIGNED, SEALED AND DELIVERED I have hereunto set my hand and seal:

MSI Spergel Inc. in its capacity as court-appointed receiver of 1391 Ontario St. Inc.

(Name of Seller) Mukul Manchanda (Signature of Seller/Authorized Signing Officer) MSI Spergel Inc. in (Seal) 07/10/2025 (Date) (Tel. No.) (Signature of Seller/Authorized Signing Officer) court-appointed re (Seal) (Date) (Tel. No.)

**SPOUSAL CONSENT:** The undersigned spouse of the Seller hereby consents to the listing of the Property herein pursuant to the provisions of the Family Law Act, R.S.O. 1990 and hereby agrees to execute all necessary or incidental documents to further any transaction provided for herein.

(Spouse) (Seal) (Date) (Tel. No.)

### DECLARATION OF INSURANCE

The Salesperson/Broker/Broker of Record Brad Dykeman (Name of Salesperson/Broker/Broker of Record) hereby declares that he/she is insured as required by TRESA. (Signature(s) of Salesperson/Broker/Broker of Record)

### ACKNOWLEDGEMENT

The Seller(s) hereby acknowledge that the Seller(s) fully understand the terms of this Agreement and have received a copy of this Agreement

on the Mukul Manchanda day of 20 07/10/2025 (Signature of Seller) MSI Spergel Inc. in its capacity as court-appointed receiver of 1391 O (Date) (Signature of Seller) court-appointed receiver of 1391 Ontario St. Inc. (Date)



**Schedule A****Listing Agreement - Commercial****Seller Designated Representation Agreement****Authority to Offer for Sale**

This Schedule is attached to and forms part of the Listing Agreement - Commercial Seller Designated Representation Agreement, Authority to Offer for Sale (Agreement) between:

**BROKERAGE:** ..... Cushman & Wakefield ULC. ...., and

**SELLER:** ..... MSI Spergel Inc. in its capacity as ..... court-appointed receiver of 1391 Ontario St. Inc. ....

**PROPERTY:** ..... 1391 Ontario ..... Burlington ..... ON ..... L7S 1G2 .....

This Schedule to the Agreement, *inter alia*, sets out the details of the provision of services by the Brokerage and the provision of services, confidentiality and representation by the Designated Representative of the Brokerage, and subject to the terms of Clause 14 in the Agreement (Conflict or Discrepancy), is in addition to provision of services, confidentiality and representation set out in the Agreement.

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"). Cushman & Wakefield ULC., Brokerage (hereinafter, the "Broker") acknowledges that the sale is taking place pursuant to the court order of The Honourable Mr. Justice Bordin dated June 3, 2025, 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.

5. Any commission otherwise payable under the Listing Agreement shall be limited to 3.0% of the sale price of the Property, if the Property is sold, without the involvement of a cooperating broker, to an individual who has been previously introduced to the Property, or to any corporation or partnership connected to such an individual.

6. Any prospective purchaser agrees to use the Seller's Form of Offer which will be provided by the Broker to such prospective purchaser.

This form must be initialed by all parties to the Agreement.

**INITIALS OF LISTING BROKERAGE:**

  
BD

**INITIALS OF SELLER(S):**

  
MM



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**Schedule A****Listing Agreement - Commercial****Seller Designated Representation Agreement****Authority to Offer for Sale**

This Schedule is attached to and forms part of the Listing Agreement - Commercial Seller Designated Representation Agreement, Authority to Offer for Sale (Agreement) between:

**BROKERAGE:**..... Cushman & Wakefield ULC....., and

**SELLER:**..... MSI Spergel Inc. in its capacity as ..... court-appointed receiver of 1391 Ontario St. Inc. ....

**PROPERTY:**..... 1391 Ontario ..... Burlington ..... ON ..... L7S 1G2 .....

This Schedule to the Agreement, *inter alia*, sets out the details of the provision of services by the Brokerage and the provision of services, confidentiality and representation by the Designated Representative of the Brokerage, and subject to the terms of Clause 14 in the Agreement (Conflict or Discrepancy), is in addition to provision of services, confidentiality and representation set out in the Agreement.

**Brokerage Services Provided to the Seller:**

1. **Market Insights:** We will provide you with up-to-date and comprehensive advice on prevailing market conditions to ensure informed decision-making throughout the process.
2. **Professional Referrals:** Should you require assistance from additional professionals, such as lenders, lawyers, or other experts, we will connect you with trusted, experienced individuals in these fields.
3. **Showing Coordination:** We will confirm and arrange property showings for prospective buyers.
4. **Offer Guidance:** We will advise how to handle offers, negotiate terms, and navigate other key aspects of the transaction.
5. **Negotiation Representation:** We will represent your interests in negotiations with the buyer and the buyer's realtor.
6. **Transaction Support:** We will provide guidance in reviewing and completing all necessary paperwork related to the sale.
7. **Invoicing and Accounting:** Our accounting department will manage any invoicing requirements related to the sale.

The Seller authorizes the Designated representatives to make any applicable changes to the MLS Data Form relating to property features and comments with the exception to the following:

- Listing Price
- Expiry Date
- Area Size
- Total Area (as well as the division of space into office/industrial/retail)

Any changes to the above listed items must be fully executed on the appropriate Amendment to Listing Agreement - Commercial relevant to the transaction type.


This form must be initialled by all parties to the Agreement.

**INITIALS OF LISTING BROKERAGE:****INITIALS OF SELLER(S):**

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# APPENDIX 4

	<b>1391 Ontario St</b> <b>Burlington Ontario L7S 1G2</b> Burlington Brant Halton <b>SPIS:</b> N <b>Taxes:</b> \$42,019.54/2025/Annual <b>DOM:</b> 153		<b>List: \$2,295,000</b> <b>For Sale</b>
	<b>For: Sale</b> <b>Last Status:</b> SC <b>Office:</b> Office <b>Office:</b> Office <b>Professional Office:</b> Professional Office <b>Com Cndo Fee:</b> <b>Dir/Cross St:</b> Ontario Street / Burlington Avenue <b>Directions:</b> West of Burlington Ave, North of Ontario Street		<b>Occup:</b> Tenant <b>Freestanding:</b> Y <b>SPIS:</b> N <b>Lse Term Mnths:</b> / <b>Holdover:</b> 90 <b>Franchise:</b>
<b>MLS#:</b> W12290392 <b>Sellers:</b> MSI Spergel Inc. in its capacity as court-appointed receiver of 1391 Ontario St. Inc. <b>Contact After Exp:</b> N <b>Possession:</b> Immediate <b>Remarks:</b> Immediate <b>PIN#:</b> 070820016 <b>ARN#:</b> 240206060410400 <b>Additional PIN#:</b>			
<b>Total Area:</b> 4918 Sq Ft <b>Ofc/Apt Area:</b> 100 % <b>Indust Area:</b> <b>Retail Area:</b> <b>Apx Age:</b> <b>Volts:</b> <b>Amps:</b> <b>Zoning:</b> Downtown Residential Low DensityZone <b>Truck Level:</b> <b>Grade Level:</b> <b>Drive-In:</b> <b>Double Man:</b> <b>Clear Height:</b> <b>Sprinklers:</b> N <b>Heat:</b> Gas Forced Air Closd <b>Phys Hdcp-Eqp:</b> <b>Phased in Tax:</b> \$2,309,000	<b>Survey:</b> <b>Lot Size Area:</b> 0.211 Acres <b>Lot Shape:</b> Rectangular <b>Lot Size Source:</b> GeoWarehouse <b>Lot/Bldg/Unit/Dim:</b> 71.75 x 133 Feet Lot <b>Lot Irreg:</b> <b>Bay Size:</b> <b>%Bldg:</b> <b>Washrooms:</b> 0 <b>Water:</b> Municipal <b>Water Supply Type:</b> Comm Well <b>Sewers:</b> San+Storm <b>A/C:</b> Y <b>Utilities:</b> A <b>Garage Type:</b> Outside/Surface <b>Park Spaces:</b> 13 <b>#Trl Spc:</b> <b>Energy Cert:</b> <b>Cert Level:</b> <b>GreenPIS:</b>	<b>Soil Test:</b> <b>Out Storage:</b> <b>Rail:</b> N <b>Crane:</b> N <b>Basement:</b> <b>Elevator:</b> None <b>UFFI:</b> <b>Assessment:</b> 2025 <b>Chattels:</b> <b>LLBO:</b> <b>Days Open:</b> <b>Hours Open:</b> <b>Employees:</b> <b>Seats:</b> <b>Area Infl:</b> <b>HST Applicable to Sale Price:</b> In Addition To	
<b>Bus/Bldg Name:</b> <b>Actual/Estimated:</b> <b>For Year:</b> <b>Financial Stmt:</b> <b>Taxes:</b> <b>Heat:</b> <b>Gross Inc/Sales:</b> <b>EstValueInv At Cost:</b> <b>Insur:</b> <b>Hydro:</b> <b>-Vacancy Allow:</b> <b>Com Area Upcharge:</b> <b>Mgmt:</b> <b>Water:</b> <b>-Operating Exp:</b> <b>% Rent:</b> <b>Maint:</b> <b>Other:</b> <b>=NetIncB4Debt:</b>			
<b>Client Remks:</b> Prime corner property ideally located in the heart of Downtown Burlington. Three-storey standalone office building within walking distance to public transit, shops, restaurants, and other amenities, makes it an ideal location for a wide range of uses. Ample on-site parking and convenient access to the QEW and Highway 403. This unique opportunity offers accessibility to one of Burlington's most vibrant urban areas. Property is partially tenanted and being sold through a court appointed receiver. <b>Extras:</b> <b>Inclusions:</b> <b>Exclusions:</b> <b>Rental Items:</b> <b>Showing Requirements:</b> List Salesperson <b>Brkage Remks:</b> Commission fees will only be paid upon both completion of the transaction and collection from the Seller. For marketing package or to arrange a tour, contact dee.malek@cushwake.com.			
<b>CUSHMAN &amp; WAKEFIELD Ph:</b> 905-568-9500 <b>Fax:</b> 905-568-9444 1 Prologis Blvd Suite 300 Mississauga L5W0G2 <b>MICHAEL YULL, SIOR, Salesperson</b> 647-272-3075 <b>Contract Date:</b> 07/17/2025 <b>Condition:</b> <b>Ad:</b> N <b>Expiry Date:</b> 03/17/2026 <b>Cond Expiry:</b> 01/01/2026 <b>Escape:</b> <b>Last Update:</b> 12/03/2025 <b>CB Comm:</b> 1.5% + HST <b>Original:</b> \$2,995,000			

# APPENDIX 5

## AGREEMENT OF PURCHASE AND SALE

**THIS AGREEMENT** dated as of the 2nd day of December, 2025.

BETWEEN:

**MSI SPERGEL INC.**, solely in its capacity as Court-appointed receiver of the property owned by 1391 Ontario Street Inc., known municipally as 1391 Ontario Street, Burlington, Ontario and not in its personal or corporate capacity and without personal or corporate liability.

(the “**Vendor**” or “**Receiver**”)

OF THE FIRST PART

- and -

Adakite Inc. in trust for a corporation to be incorporated

(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 16 hereof only, the *Excise Tax Act* (Canada);
- (b) “**Agent**” shall have the meaning ascribed thereto in Section 14 (g) hereof;
- (c) “**Agreement**” means this agreement of purchase and sale executed by the Purchaser and accepted by the Vendor, together with the attached schedules;
- (d) “**Applicable Laws**” means, with respect to the Purchased Assets and any Person, transaction, property, or event, all laws, by-laws, rules, regulations, ordinances, protocols, regulatory policies, codes, guidelines, official directives, orders, rulings, judgments, decrees, decisions or other requirements having the force of law

relating to or applicable to such Purchased Assets, Person, property, transaction or event;

- (e) “**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”;
- (f) “
- (g) “**Building(s)**” means the buildings, improvements, installations and fixtures of every nature and kind situate in, on and/or over the Lands;
- (h) “**Business Day**” means any day on which banks are open for business in the City of Toronto, other than a Saturday or a Sunday or a statutory holiday in the Province of Ontario or a day on which the Registry Office is closed for business;
- (i) “**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, including without limitation, any demand, action, cause of action, damage, loss, cost, liability or expense, including reasonable professional and legal fees on a substantial indemnity basis and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing, whether or not they have attached or been perfected, registered or filed and whether secured or unsecured, matured or unmatured, disputed or undisputed, liquidated or unliquidated, or otherwise;
- (j) “**Closing**” shall have the meaning ascribed to it in Section 6 hereof;
- (k) “**Court**” means the Ontario Superior Court of Justice;
- (l) “**Court Order**” means collectively the order of the Honourable Justice Bordin dated the 3rd day of June, 2025, whereby the Vendor was appointed receiver of the above described properties 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”;
- (m) “**Data**” shall have the meaning ascribed to it in Section 5 (a) hereof;
- (n) “**Date of Closing**” shall have the meaning ascribed to it in Section 6 hereof;
- (o) “**Debtor**” shall mean 1391 Ontario Street Inc.
- (p) “**Deposit**” shall have the meaning ascribed to it in Section 3(a) hereof;
- (q) “**DRA**” shall have the meaning ascribed to it in Section 7(a)(i) hereof;
- (r) “**Encumbrance**” means in respect of the Assets any mortgage, charge, pledge, hypothecation, security interest, assignment, lien (statutory or otherwise), claim,

title retention agreement or arrangement, restrictive covenant, rights of way, easements, encroachments, execution, reserves, or similar interests or instruments, or other encumbrance of any nature or any other arrangement or condition which, in substance, secures payment or performance of an obligation and any instrument charging or creating a security interest in, or against title to, such Assets, whether created by agreement, statute or otherwise at law, attaching to the Lands;

- (s) **“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;
- (t) **“Excluded Assets”** All undertakings, property and assets of the Debtor other than the Purchased Assets shall be excluded from the purchase and sale of assets provided for in this Agreement, including but not limited to:
  - (i) any amounts (including the Purchase Price) paid or payable pursuant to this Agreement;
  - (ii) all rights, claims or causes of action by or in the right of the Debtor against any current or former director or officer of the Debtor;
  - (iii) the Debtor’s cash or cash equivalents;
  - (iv) the Debtor’s accounts receivable;
  - (v) original tax records and books and records pertaining thereto, minute books, corporate seals, taxpayer and other identification numbers and other documents relating to the organization, maintenance and existence of the Debtor or the Purchased Assets;
  - (vi) the benefit of any prepaid expenses or deposits with any Person (including, without limitation, the benefit of any prepaid rent), public utility or Government Authority; and
  - (vii) the benefit of any refundable Taxes payable or paid by the Debtor or paid by the Receiver in respect of the Purchased Assets and applicable to the period prior to the Closing Date net of any amounts withheld by any taxing authority, and any claim or right of the Debtor or the Receiver to any refund, rebate, or credit of Taxes for the period prior to the Closing Date.

Nothing herein will be deemed to constitute an agreement to sell, transfer, assign or convey the Excluded Assets to Purchaser.



- (u) **"Government Authority"** means any Person, body, department, bureau, agency, board, tribunal, commission, branch or office of any federal, provincial or municipal government or any quasi-governmental or private body exercising any regulatory authority having or claiming to have jurisdiction over part or all of the Purchased Assets, 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;
- (v) **"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 any Environmental Laws, any 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;
- (w) **"HST"** shall have the meaning ascribed thereto in Section 16(a) hereof;
- (x) **"ICA"** shall have the meaning ascribed thereto in Section 10(b) hereof;
- (y) **"Inaccuracies"** shall have the meaning ascribed thereto in Section 5 (b) hereof;
- (z) **"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;
- (aa) **"Material Damage"** shall have the meaning ascribed thereto in Section 8 hereof;
- (bb) **"Parties"** means the Vendor, the Purchaser and any other Person who may become a party to this Agreement, and **"Party"** means any one of the foregoing;
- (cc) **"Permitted Encumbrances"** means the encumbrances listed in Schedule "C" hereof;
- (dd) **"Person"** means an individual, a corporation, a partnership, a trust, an unincorporated organization, the government of a country or any political subdivision thereof, or any agency or department of any such government, and the executors, administrators or other legal representatives of an individual in such capacity;
- (ee) **"Purchase Price"** shall have the meaning ascribed thereto in Section 3 hereof;

- (ff) **"Purchased Assets"** means the Real Property and excludes any personal property located or situate on or about the Real Property and not owned by 1391 Ontario Street Inc., but shall include all Furniture, Fixtures, & Equipment located on the property. For greater clarity, Purchased Assets shall not include Excluded Assets;
- (gg) **"Purchaser"** means Adakite Inc. in trust for a corporation to be incorporated;
- (hh) **"Purchaser's Solicitor"** means Beth Mullin, McKenzie Lake Lawyer (Telephone (519-672-5666 ext. 7324 905-981-6412, email address: beth.mullin@mckenzielake.com
- (ii) **"Real Property"** means 1391 Ontario Street, Burlington, Ontario;
- (jj) **"Registry Office"** shall have the meaning ascribed to it in Section 7(a) hereof;
- (kk) **"Rights"** means the right, title and interest, if any, of the Debtor, 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;
- (ll) **"TERS"** shall have the meaning ascribed to it in Section 7(a) hereof;
- (mm) **"Vendor"** means msi Spergel Inc., solely in its capacity as Court-appointed receiver of the properties and not in its personal or corporate capacity and without personal or corporate liability;
- (nn) **"Vendor's Deliveries"** shall have the meaning ascribed thereto in Section 5 hereof;
- (oo) **"Vendor's Solicitors"** means the firm of SimpsonWigle LAW LLP 103-1006 Skyview Drive, Burlington, Ontario L7P0V1 Attention: Rosemary Fisher Telephone: (905) 639-1052 Extension 239; Email: FisherR@simpsonwigle.com;
- (pp) **"Work Order"** means (i) a work order, deficiency notice, order to comply, inspector's order, notice of violation or non-compliance with any Applicable Law or similar directive or an outstanding permit in each case issued in written or electronic form by a Government Authority having jurisdiction with respect to the Lands; or (ii) any default or non-compliance under any subdivision, site plan, development or other similar regional or municipal agreement affecting the Purchased Assets.

## 2. **NATURE OF TRANSACTION**

The Purchaser shall purchase, and the Vendor shall sell the Purchased Assets, upon and subject to the terms of this Agreement. The Purchaser acknowledges that it is not purchasing any other property or assets of Happy Town Housing Inc. other than the Purchased Assets.

### 3. **PURCHASE PRICE**

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

- (a) **Deposit**: by the Purchaser delivering to the Vendor concurrently upon the execution of this Agreement by the Parties hereto, the sum of [REDACTED] Dollars (the "**Deposit**"), being five (5%) percent of the purchase price 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; and
- (b) The parties to this Agreement of Purchase and Sale hereby acknowledge that the Deposit Holder shall place the Deposit in trust in its interest-bearing real estate trust account and interest shall be credited to the Buyer on account of the Purchase Price on closing. The deposit shall be held in trust by the Deposit Holder pending completion or other termination of this Agreement and will be credited toward the Purchase Price on completion. If the transaction contemplated by this Agreement is not completed for any reason, other than solely as a result of the default of the Buyer pursuant to this Agreement, the deposit, shall be returned forthwith to the Buyer with interest, set-off or deduction.
- (c) **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.

If this Agreement is not completed due to the default of the Purchaser, the Deposit shall be forfeited to the Receiver.

The Vendor and the Purchaser acknowledge and agree that they shall each make their own allocations of the Purchase Price between the Purchased Assets 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 realty taxes, local improvement rates, water and assessment rates, utilities, that form a lien on title and which are not vested out but by the Approval and Vesting Order, fuel costs, and any other items which are usually adjusted in purchase transactions involving commercial properties provided 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 Purchased Assets 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 Purchased Assets 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 Purchased Assets and that the Purchaser shall have conducted such inspections of the condition and title to the Purchased Assets 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, any improvements on the Lands, any services to the Lands or lack thereof, the condition (including any environmental condition) of the Purchased Assets including any building or improvement thereon, the soil, the subsoil, the ground and surface water or any other environmental matters, the use to which the Purchased Assets may be put and its zoning, the discharge of any contaminants from, on, or in relation to the Purchased Assets, the existence, state, nature, identity, extent or effect of any investigations, administrative orders, control orders, stop orders compliance orders or any other proceedings or actions under any environmental laws in relation to the Purchased Assets, the condition of all chattels, equipment, furniture and fixtures, the status of any Encumbrances related to the Lands and compliance requests, the status and nature of any Permitted Encumbrances, the third party consents that may be required to complete the transaction contemplated by this Agreement (excluding for certainty the issuance by the Court of the AVO), the status and content of the Leases, the existence or non-existence of Hazardous Materials, compliance with any or all Environmental Laws, legality of rents, income, merchantability, physical condition, quality, quantity, value or lawful use or in respect of any other matter or thing whatsoever concerning the Purchased Assets, 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, including without limitation the Vendor's Deliveries (collectively the "**Data**"), of, and/or in regard to the Purchased Assets contained in this Agreement and/or supplied by the Vendor, its employees, agents, contractors and/or representatives, 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 completeness or 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 Purchased Assets 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 Purchased Assets. The Purchaser acknowledges that it has relied entirely upon its own inspections and investigations with respect to the Data, the purchase of the Purchased Assets including the quantity, quality and value thereof.

- (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 Purchased Assets 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;
  - (vi) the existence or non-existence of underground storage tanks
  - (vii) any other matter affecting the stability or integrity of the Buildings, the improvements thereon and the Lands;
  - (viii) the availability of public utilities and services for the Lands;
  - (ix) the existence of any outstanding Work Orders which the Purchaser agrees to assume, or any other non-compliance of the Purchased Assets with Applicable Laws, including Environmental Laws;
  - (x) the fitness or suitability of the Lands for occupancy or any intended use (including matters relating to health and safety);
  - (xi) the sufficiency or adequacy of any wells and water supply for irrigation or any other purpose;
  - (xii) the existence of zoning or building entitlements affecting the Lands;

- (xiii) the existence of any Leases and occupation agreements, including without limitation with respect to:
- (1) whether rent deposits, damage deposits or like payments have been made or not;
  - (2) the correctness of the calculation, both past and present, of all rent paid or payable in respect of the Leases;
  - (3) the existence of any renewal rights or the terms associated with any renewal privileges;
  - (4) the absence of any ongoing disputes with the tenants with respect to any matter including the physical condition of the leased premises, any claim of set off, the existence of rent deposits or renewal privileges;
  - (5) the absence of any rights conferred upon the tenants in any Lease or ancillary document granting to the tenant additional rights or privileges, including rights of first refusal, options or any exclusivity or non-competition clause; and
  - (6) the absence of any commitment made by the Debtor or the Vendor or any party acting on behalf of the Debtor or the Vendor to grant additional rights or privileges to the tenants.

The Data and the description of the Purchased Assets in any marketing material, listing information, the Vendor's Deliveries and any like material delivered or made available by the Vendor, its agents or any other party on its behalf to the Purchaser or its representatives are believed to be correct, but if any misstatement, error, inaccuracy or omission (collectively the "**Inaccuracies**") is found in the particulars thereof, the Purchaser shall not be entitled to any abatement, damages, reimbursement, costs or to termination of this Agreement as a result thereof and the Purchaser hereby releases the Vendor from any Claims the Purchaser had, has or may have as a result of such Inaccuracies.

- (c) **Existing Leases:** The Seller warrants there are no existing leases or occupancy agreements affecting the Real Property.

## 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 the twentieth (20<sup>th</sup>) Business Days after the date upon which the Vendor obtains the Approval and Vesting Order (the "**Date of Closing**" or the "**Closing Date**"), or such other date as may be agreed between the Vendor and Purchaser in writing. [

## 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 Ontario 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 Ontario, which document version was adopted by the joint LSO-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**"), subject to revisions thereto as agreed to by the Parties solicitors both acting reasonably establishing the procedures and timing for completing this transaction.
- (ii) The delivery and exchange of the Closing Documents:
- (1) shall not occur contemporaneously with the registration of the Transfer and other registerable documentation; and
- (2) shall be governed by the DRA, pursuant to which the Vendor's Solicitors, Purchaser's Solicitor and any solicitor for a lender to the Purchaser shall hold all Closing Documents in escrow and will not be entitled to release them except in strict accordance with the provisions of the DRA.
- (b) If the Purchaser's Solicitor does not have computer facilities enabling him to complete this transaction via TERS, the Purchaser's Solicitor shall personally attend at the office of the Vendor's Solicitors on the Closing Date in order to complete this transaction via TERS utilizing the computer facilities in the Vendor's Solicitors' office to log on to the Purchaser's Solicitor's Teraview Account.
- (c) The Purchaser expressly acknowledges and agrees that the Vendor will not release the Approval and Vesting Order to the Purchaser's solicitor for registration until the balance of funds due on Closing, in accordance with the Statement of Adjustments, and the Purchaser's closing deliveries pursuant to Section 14 hereof are remitted to the Vendor's Solicitors.
- (d) Notwithstanding anything contained in this Agreement to the contrary, it is expressly understood and agreed by the Parties hereto that an effective tender shall be deemed to have been made by the Vendor upon the Purchaser, or the Vendor's Solicitors have:

- (i) delivered all Closing Documents required to be delivered by the Vendor to the Purchaser pursuant to Section 13 hereof;
- (ii) advised the Purchaser's Solicitor in writing that the Vendor is ready, willing and able to complete the transaction in accordance with the terms and provisions of this Agreement; and
- (iii) completed all steps required by TERS to complete this transaction that can be performed or undertaken by the Vendor's Solicitors without the cooperation or participation of the Purchaser's Solicitor,

without the necessity of personally attending upon the Purchaser or the Purchaser's Solicitor with the Closing Documents, and without any requirement to have an independent witness evidencing the foregoing.

- (e) Notwithstanding anything contained in this Agreement to the contrary, it is expressly understood and agreed by the Parties hereto that an effective tender shall be deemed to have been made by the Purchaser upon the Vendor, when the Purchaser's Solicitor has:
  - (i) delivered the balance due at Closing and all the Closing Documents required to be delivered by the Purchaser to the Vendor pursuant to Section 14 hereof;
  - (ii) advised the Vendor's Solicitors in writing that the Purchaser is ready, willing and able to complete the transaction in accordance with the terms and provisions of this Agreement; and
  - (iii) completed all steps required by TERS to complete this transaction that can be performed or undertaken by the Purchaser's Solicitor without the cooperation or participation of the Vendor's Solicitors, and specifically when the "completeness signatory" for the Deed has been electronically "signed" by the Purchaser's Solicitor,
- (f) 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 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 Agreement and the terms of the DRA, the terms of this Agreement shall prevail to the extent of such conflict or inconsistency.



## 8. **PRE-CLOSING RISK AND POST-DAMAGE ENTITLEMENTS**

The Purchased Assets are and shall remain at the Vendor's risk until Closing. In the event of material damage to the Purchased Assets prior to the Closing Date, in excess of one hundred thousand (\$100,000.00) Dollars, as determined by an independent third party expert appointed by the Vendor and agreed upon by the Purchaser ("**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 commercially reasonable efforts to advise the Purchaser, in writing, within two Business Days of the Vendor learning of any Material Damage to the Purchased Assets. The Purchaser shall have fifteen (15) days, or such longer period as the Vendor in its sole, absolute and subjective 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 or interest failing which, the Purchaser shall be deemed to have elected to complete the transaction in accordance with subparagraph (a) above.

If, prior to the Closing Date, all or a material part of the Lands is expropriated or a notice of expropriation or intent to expropriate all or a material part of the Lands is issued by any Government Authority, the Receiver shall immediately advise the Purchaser thereof by Notice in writing. The Purchaser shall, by Notice in writing given within five (5) Business Days after the Purchaser receives Notice in writing from the Receiver of such expropriation, elect to either: (i) complete the Transaction contemplated herein in accordance with the terms hereof without reduction of the Purchase Price, and all compensation for expropriation shall be payable to the Purchaser and all right, title and interest of the Receiver or the Debtor to such amounts, if any, shall be assigned to the Purchaser on a without recourse basis; or (ii) terminate this Agreement and not complete the Transaction, in which case all rights and obligations of the Receiver and the Purchaser (except for those obligations which are expressly stated to survive the termination of this Agreement) shall terminate, and the Deposit shall be returned to the Purchaser forthwith.

## 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 the Real Property owned by 1391 Ontario Street Inc. by the Court Order and has the right, power and authority to market the Purchased Assets for sale and, subject to obtaining the Approval and Vesting Order prior to Closing. On Closing, the Receiver shall have the power and authority to sell, convey, transfer, lease or assign the Purchased Assets 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 judgement 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) the Purchaser is not a non-Canadian within the meaning of the *Prohibition on the Purchase of Residential Property by Non-Canadians Act* (Canada);

- (d) the Purchaser is registered or will be registered on Closing under Part IX of the ETA;
- (e) the Purchaser has not committed an act of bankruptcy, is not insolvent, has not proposed a compromise or arrangement to its creditors generally, has not had any application for a bankruptcy order filed against it, has not taken any proceeding and no proceeding has been taken to have a receiver appointed over any of its assets, has not had an encumbrancer take possession of any of its property and has not had any execution or distress become enforceable or levied against any of its property;
- (f) 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.
- (g) 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 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 and save for Section 11 (a) (iii) may be unilaterally waived by the Vendor.

- (b) The Vendor covenants to use reasonable commercial efforts to fulfil or cause to be fulfilled the condition contained in Section 11 (a) (iii) and the Purchaser covenants to use its reasonable commercial efforts to fulfil or cause to be fulfilled the conditions contained in Section 12 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, subjective 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 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 and save for Section 12 (a) (iii) may be unilaterally waived by the Purchaser.

- (b) The Purchaser covenants to use reasonable commercial efforts to fulfil or cause to be fulfilled the conditions contained in Subsection 12(a) (i-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 1391 Ontario Street Inc. if any, in and to the Purchased Assets 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 attached hereto 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. Except as aforesaid, no adjustments shall be allowed to the Purchaser for changes in the Purchased Assets 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;
- (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 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 applicable 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 Authority does not deliver such rebate directly to the Vendor, the Purchaser hereby irrevocably undertakes to deliver any realty tax rebate to the Vendor upon either receipt or readjustment of same, until delivery of the rebate as aforesaid to the Vendor, the rebate funds shall be held by the Purchaser in trust for the Vendor.

- (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 116 of the *Income Tax Act* (Canada); 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 Purchased Assets 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) **Waiver of Conditions**: an acknowledgement dated as of the Date of Closing, that each of the conditions precedent in Section 12 herein have been fulfilled, performed or waived as of the Closing Date;
- (b) **Undertaking To Re-Adjust**: the Purchaser's undertaking to re-adjust any item on or omitted from the statement of adjustments;
- (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 12 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**:

Unless the Purchaser has provided the Vendor's Broker, at the time of submission of this Agreement, with a confirmation of co-operation and representation agreement, acknowledging the Purchaser is represented by a co-operating/MLS broker, the Purchaser hereby advises it is self-represented and has not engaged any broker or other agent in connection with the transaction provided for in this

Agreement and, accordingly, there is no commission, fee or other remuneration payable to any broker or agent who purports or may purport to have acted for the Purchaser. In the event the Purchaser has provided the above-noted confirmation of co-operation and representation agreement at the time of submitting this Agreement, then the Purchaser's broker shall be paid its commission by the Vendor's Broker in accordance with the Property's MLS posting.

- (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;
- (j) **Direction Regarding Title**: provided the Vendor has consented to an assignment of this Agreement in accordance with Section 34 hereof 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;
- (k) **Assignment and Assumption of this Agreement**: provided the Vendor has consented to an assignment of this Agreement in accordance with Section 34 hereof, an assignment and assumption of this Agreement whereby the assignee agrees to assume all of the Purchaser's obligations and liabilities hereunder as if it were the original purchaser party to this Agreement;

- (l) **Leases and Permitted Encumbrances:** an assumption of all Leases and Permitted Encumbrances (to the extent assignable);
- (m) **Non-Canadian:** a certificate of a senior officer of the Purchaser that the Purchaser is not a non-Canadian within the meaning of the *Prohibition on the Purchase of Residential Property by Non Canadians Act* (Canada); and
- (n) **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 Vendor shall not be required to make any statements contemplated under Section 50(22) of the *Planning Act* (Ontario), as amended. 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)(ii) 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:

Adakite Inc.  
Attention: Michael Hendrie  
Email: mhendrie@adakite.ca

with a copy to the Purchaser's Solicitor at;

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_  
Email: \_\_\_\_\_

and in the case of the Vendor to:

Msi Spergel Inc., in its Capacity as  
Court-Appointed Receiver of  
1391 Ontario Street, Burlington, Ontario  
1100-200 Yorkland Blvd.,  
Toronto, ON M2J 5C1

Attention: Philip H. Gennis  
Email: pgennis@spergel.ca  
Telephone/Fax: 416-498-4325 and

with a copy to the Vendor's Solicitors:

SimpsonWigle LAW LLP  
103-1006 Skyview Drive  
Burlington, Ontario L7P 0V1  
Attention: Rosemary Fisher  
Telephone: (905) 639-1052 Extension 239

Fax: (905) 333-3960  
Email: FisherR@simpsonwiggles.com

Such notice shall be deemed to have been delivered upon delivery or communicated upon transmission unless such notice is delivered or transmitted 5 P.M. EST, 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.

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, save for the conditions in Sections 11 (a) (iii) and 12 (a) (iii) (collectively the "**CP**"). Any one or more of the said conditions, other than the CP, 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-fulfilment 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 Purchased Assets. 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 Section 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 Purchased Assets;
- (b) to enforce any of its rights/remedies hereunder;
- (c) to secure the Approval and Vesting Order;
- (d) to enforce any of its other rights/remedies, if any, pursuant to common law, equity or statute; or
- (e) to comply with Applicable Laws requiring disclosure.

The Purchaser agrees that it will only disclose to Persons as aforesaid on a "need to know" basis in connection with this transaction and then only on the basis that such Persons also keep such terms confidential as aforesaid.

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 land transfer tax affidavit to be attached to the Approval and Vesting Order described in Subsection 13(a) hereof and the documentation described in Subsections 14 , (d), (f) (g) and (j) 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 AND RETAIL SALES TAXES**

The Purchaser shall be responsible for all federal and provincial sales taxes, land transfer tax, goods and services, HST and other similar taxes and duties and all registration fees payable upon or in connection with the conveyance or transfer of the Purchased Assets to the Purchaser. If the sale of the Purchased Assets is subject to HST, then such tax shall be in addition to the Purchase Price. The Receiver will not collect HST if the Purchaser provides to the Receiver on Closing a certificate certifying that: (i) it is registered under the ETA, (ii) its registration number, (iii) its covenant to self-assess and remit the HST payable and file the prescribed form and shall indemnify the Receiver saving the Receiver harmless from liability for the payment of any HST in connection with the Transaction. The foregoing warranties shall not merge but shall survive the completion of the Transaction.

### 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 Applicable Laws in effect within the Province of Ontario.

### 34. **ASSIGNMENT**

The Purchaser shall be entitled, at any time prior to service of motion materials by the Receiver to obtain the Approval and Vesting Order, to assign this Agreement in its entirety to a corporation and/or to direct title to a corporate nominee of its choosing; provided in each case that the Purchaser shall first deliver Notice of same to the Receiver, which Notice shall be accompanied by a customary assumption covenant from the assignee/nominee in favour of the Receiver, in a form approved by the Receiver acting reasonably, , provided however, that any such assignment shall not relieve the Purchaser of its obligations hereunder.

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 Purchased Assets 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 Purchased Assets 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 Purchased Assets on the Closing Date.

### 35. **COMMISSION**

Unless the Purchaser has provided the Vendor's Broker, at the time of submission of this Agreement, with a confirmation of co-operation and representation agreement, acknowledging the Purchaser is represented by a co-operating/MLS broker, the Purchaser hereby advises it is self-represented and has not engaged any broker or

other agent in connection with the transaction provided for in this Agreement and, accordingly, there is no commission, fee or other remuneration payable to any broker or agent who purports or may purport to have acted for the Purchaser. In the event the Purchaser has provided the above-noted confirmation of co-operation and representation agreement at the time of submitting this Agreement, then the Purchaser's broker shall be paid its commission by the Vendor's Broker in accordance with the Property's MLS posting.

36. **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. The Purchaser agrees that it 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.

37. **TITLE**

The Purchaser acknowledges and agrees that notwithstanding any law whether statutory or otherwise to the contrary, the Purchaser has satisfied itself as to title and agrees that it has no right to submit requisitions: (i) in respect of the title and accepts same subject to the Permitted Encumbrances and the Encumbrances to be extinguished pursuant to the Approval and Vesting Order; nor (ii) in respect of any zoning matter, land use, Work Orders and the Purchaser shall accept title to the Lands subject to the foregoing and shall satisfy itself as to compliance therewith.

38. **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 the Real Property owned by 1391 Ontario Street 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 the Real Property owned by 1391 Ontario Street 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 Purchased Assets.

39. **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.

**40. NON-MERGER**

The Parties agree that all provisions of this Agreement, and all provisions of any and all documents and security delivered in connection herewith, shall not merge and shall, except where otherwise expressly stipulated herein, survive the closing of the transaction contemplated by this Agreement.

**41. COUNTERPARTS & ELECTRONIC TRANSMISSION**

This Agreement may be executed electronically and in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by facsimile or electronic mail of an executed counterpart of this Agreement, and amendment, waiver and any other document contemplated herein shall be deemed to constitute due and sufficient delivery of such document.

**42. PURCHASERS CONDITIONS**

This Agreement is conditional for thirty (30) days from the date of its acceptance upon the Purchaser having obtained financing satisfactory to the Purchaser in its sole and absolute discretion.

Unless the Purchaser gives Notice in writing delivered to the Seller personally or in accordance with any other provisions for the delivery of Notice in this Agreement not later than thirty (30) days from the date of its acceptance that these conditions are fulfilled, this Agreement shall be null and void and the deposit shall be returned to the Purchaser in full without deduction or penalty whatsoever. These conditions are included for the benefit of the Purchaser and may be waived at the Purchaser's sole option by notice in writing to the Vendor as aforesaid within the time period stated herein.

**43. 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 3rd day of December, 2025, after which time, if not accepted and notice of such acceptance

communicated to 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.

Adakite Inc. in trust for a corporation to be incorporated

Signed by:  
By: Michael Hendrie  
4641B9957EB7462...

Name: Michael Hendrie

Title: \_\_\_\_\_

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 \_\_\_\_ day of 12/02/2025, 2025.

**MSI SPERGEL INC.**, in its capacity as Court-Appointed Receiver of **1391 Ontario Street, Burlington, Ontario owned by 1391 Ontario Street Inc.** and not in its personal or corporate capacity and without personal or corporate liability

By: Mukul Manchanda  
Mukul Manchanda (Dec 2, 2025 17:45:37 EST)

Name: Mukul Manchanda

Title: Managing Partner

I have authority to bind the Corporation.



**Schedule "A" – COURT ORDER  
OF THE HONOURABLE JUSTICE BORDIN  
Dated June 3, 2025**

## **Schedule "B" – LEGAL DESCRIPTION OF PROPERTY**

Municipally known as: 1391 Ontario Street, Burlington, Ontario

Legal Description:

PT LTS 14, 15 & 16, PL 90, AS IN 854221, EXCEPT PT 2, 20R5222,T/W 589292;  
BURLINGTON. {07082-0016 LT}

## **Schedule “C” – PERMITTED ENCUMBRANCES**

### **GENERAL**

- a. any reservation or unregistered restrictions, rights of way, easements or covenants that run with the land;
- b. any registered or unregistered agreements or easements with a Governmental Authority or a supplier of utility services including without limitation, electricity, water, sewage, gas, telephone or cable television or any other telecommunication service;
- c. any Applicable Laws and non-compliance therewith;
- d. any minor easements for the supply of utility service to the land or adjacent lands;
- e. any encroachments, defects or irregularities disclosed by any existing surveys of the Lands or neighbouring properties and any title defect, encroachment or breach of zoning or building by-law or any other applicable law, by-law or regulation which might be disclosed by a more up-to-date survey or the Lands and survey matters generally;
- f. any exceptions and qualifications set forth in the *Land Titles Act* (Ontario);
- g. any reservation limitations, provisos and conditions contained in the original grant from the Crown;
- h. any Land Registrar's registered orders;
- i. any deposited reference plans;
- j. any subdivision agreements, site plan agreements, development agreements, and any other agreements with the City of Guelph, publicly regulated utilities or any other Governmental Authority having jurisdiction in respect of the Lands;
- k. zoning (including, without limitation, airport zoning regulations), use and building by-laws and ordinances, federal, provincial or municipal by-laws and regulations; and
- l. minor title defects.

Specific Encumbrances:

1. RO493091, being a Notice of Zoning Regulations registered on March 4, 1985

## **Schedule “D” FORM OF VESTING ORDER**

# APPENDIX 6

## Enquiry Result

File Currency: 02JAN 2026



All Pages ▾



Show All Pages

**Note: All pages have been returned.**

Type of Search	Business Debtor								
Search Conducted On	1391 ONTARIO ST. INC.								
File Currency	02JAN 2026								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	789793866	1	1	1	3	06JAN 2054			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
789793866		001	1		20230106 1457 1295 1265	P PPSA	25		
Individual Debtor									
	Date of Birth	First Given Name			Initial	Surname			
Business Debtor									
	Business Debtor Name					Ontario Corporation Number			
	1391 ONTARIO ST. INC.								
	Address				City	Province	Postal Code		
	1 KING STREET WEST, 10TH FLOOR,				HAMILTON	ON	L8P 1A4		
Individual Debtor									
	Date of Birth	First Given Name			Initial	Surname			
Business Debtor									
	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Secured Party									
	Secured Party / Lien Claimant								
	BUSINESS DEVELOPMENT BANK OF CANADA								
	Address				City	Province	Postal Code		
	4145 NORTH SERVICE ROAD, SUITE 401				BURLINGTON	ON	L7L 6A3		
Collateral Classification									
	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X	X	X			
Motor Vehicle Description									
	Year	Make			Model	V.I.N.			
General Collateral Description									
	General Collateral Description								

<b>Registering Agent</b>	<b>Registering Agent</b>			
	SCARFONE HAWKINS LLP (22R2007)			
	<b>Address</b>	<b>City</b>	<b>Province</b>	<b>Postal Code</b>
	1 JAMES ST. SOUTH, 14TH FLOOR	HAMILTON	ON	L8P 4R5

CONTINUED

<b>Type of Search</b>	Business Debtor								
<b>Search Conducted On</b>	1391 ONTARIO ST. INC.								
<b>File Currency</b>	02JAN 2026								
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>				
	789793866	1	1	2	3				
<b>FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT</b>									
	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule Attached</b>	<b>Registration Number</b>	<b>Registered Under</b>			
		001	1		20230106 1459 1295 1266				
<b>Record Referenced</b>	<b>File Number</b>	<b>Page Amended</b>	<b>No Specific Page Amended</b>	<b>Change Required</b>	<b>Renewal Years</b>	<b>Correct Period</b>			
	789793866			B RENEWAL	06				
<b>Reference Debtor/ Transferor</b>	<b>First Given Name</b>	<b>Initial</b>	<b>Surname</b>						
	<b>Business Debtor Name</b>								
	1391 ONTARIO ST. INC.								
<b>Other Change</b>	<b>Other Change</b>								
<b>Reason / Description</b>	<b>Reason / Description</b>								
<b>Debtor/ Transferee</b>	<b>Date of Birth</b>	<b>First Given Name</b>	<b>Initial</b>	<b>Surname</b>					
	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	<b>Address</b>	<b>City</b>	<b>Province</b>	<b>Postal Code</b>					
<b>Assignor Name</b>	<b>Assignor Name</b>								
<b>Secured Party</b>	<b>Secured party, lien claimant, assignee</b>								
	<b>Address</b>	<b>City</b>	<b>Province</b>	<b>Postal Code</b>					
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>	<b>Model</b>	<b>V.I.N.</b>					



<b>General Collateral Description</b>	<b>General Collateral Description</b>			
<b>Registering Agent</b>	<b>Registering Agent or Secured Party/ Lien Claimant</b>			
	SCARFONE HAWKINS LLP (22R2007)			
	<b>Address</b>	<b>City</b>	<b>Province</b>	<b>Postal Code</b>
	1 JAMES ST. SOUTH, 14TH FLOOR	HAMILTON	ON	L8P 1A4

CONTINUED

<b>Type of Search</b>	Business Debtor				
<b>Search Conducted On</b>	1391 ONTARIO ST. INC.				
<b>File Currency</b>	02JAN 2026				
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>
	789793866	1	1	3	3
<b>FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT</b>					
	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule Attached</b>	<b>Registration Number</b>
		001	1		20230707 1442 2611 4465
<b>Record Referenced</b>	<b>File Number</b>	<b>Page Amended</b>	<b>No Specific Page Amended</b>	<b>Change Required</b>	<b>Renewal Years</b>
	789793866			A AMNDMNT	
<b>Reference Debtor/ Transferor</b>	<b>First Given Name</b>		<b>Initial</b>	<b>Surname</b>	
	<b>Business Debtor Name</b>				
	1391 ONTARIO ST. INC.				
<b>Other Change</b>	<b>Other Change</b>				
<b>Reason / Description</b>	<b>Reason / Description</b>				
	UPDATE SECURED PARTY				
<b>Debtor/ Transferee</b>	<b>Date of Birth</b>	<b>First Given Name</b>		<b>Initial</b>	<b>Surname</b>
	<b>Business Debtor Name</b>				<b>Ontario Corporation Number</b>
	<b>Address</b>		<b>City</b>	<b>Province</b>	<b>Postal Code</b>
<b>Assignor Name</b>	<b>Assignor Name</b>				
<b>Secured Party</b>	<b>Secured party, lien claimant, assignee</b>				
	BUSINESS DEVELOPMENT BANK OF CANADA				
	<b>Address</b>		<b>City</b>	<b>Province</b>	<b>Postal Code</b>
	81 BAY STREET, SUITE 3700		TORONTO	ON	M5J 0E7
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>
				<b>Motor Vehicle</b>	<b>Amount</b>
					<b>Date of Maturity or</b>
					<b>No Fixed Maturity</b>

						Included				Date
Motor Vehicle Description	Year	Make	Model				V.I.N.			
General Collateral Description	General Collateral Description									
Registering Agent	Registering Agent or Secured Party/ Lien Claimant									
	BDC LEGAL-MP (242499-01)									
	Address				City		Province	Postal Code		
	81 BAY STREET, SUITE 3700				TORONTO		ON	M5J 0E7		

LAST PAGE

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# APPENDIX 7

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**BUSINESS DEVELOPMENT BANK OF CANADA**

Applicants

- and -

**1391 ONTARIO ST. INC.**

Respondents

**AFFIDAVIT OF PHILIP GENNIS**  
(sworn January 5, 2026)

I, **PHILIP GENNIS**, of the City of Vaughan, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am a Licensed Insolvency Trustee with msi Spergel inc. ("**Spergel**"), the Court-Appointed Receiver (in such capacity, the "**Receiver**") of 1391 Ontario St. Inc. ("**1391**") and as such have knowledge of the matters to be deposed herein, except where such knowledge is stated to be based on information and belief, in which case I state the source of the information and verily believe such information to be true.
2. The Receiver was appointed, without security, of all of the assets, undertakings and properties of the Debtors by Order of the Honourable Mr. Justice Bordin of the Ontario Superior Court of Justice made June 3, 2025.
3. In connection with the receivership of 1391 for the period up to and including November 30, 2025 fees of \$38,408.97 (inclusive of HST and disbursements) were charged by Spergel as detailed in the billing summary and time dockets attached

hereto as **Exhibit "1"** to this my Affidavit. This represents 77.05 hours at an effective rate of \$440.92 per hour.

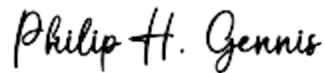
4. The hourly billing rates detailed in this Affidavit are comparable to the hourly rates charged by Spergel for services rendered in relation to similar proceedings.
5. This Affidavit is made in support of a motion to, *inter alia*, approve the receipts and disbursements of the Receiver and its accounts.
6. I make this Affidavit for no improper purpose.

SWORN BEFORE ME at the City  
of Toronto, in the Province of  
Ontario, this 5th day of January 2026



\_\_\_\_\_  
A Commissioner, etc.

Barbara Eileen Sturge,  
a Commissioner, etc. for msi Spergel inc.  
and Spergel & Associates Inc.  
Expires September 21, 2028



\_\_\_\_\_  
**PHILIP GENNIS**

**This is Exhibit “1” of the Affidavit of  
PHILIP GENNIS  
Sworn before me on this 5<sup>th</sup> day of January 2026**



**A Commissioner, Etc.**

Barbara Eileen Sturge,  
a Commissioner, etc. for msi Spengel inc.  
and Spengel & Associates Inc.  
Expires September 21, 2028



**SPERGEL**

**msi Spergel inc.**, Licensed Insolvency Trustees  
Head Office: 200 Yorkland Blvd., Suite 1100  
Toronto, ON., M2J 5C1  
T: 416 497 1660 • F: 416 494 7199  
**www.spergel.ca**

December 30, 2025

**DRAFT**

**Invoice #: 1308**

1391 Ontario St. Inc.

## INVOICE

**RE: 1391 Ontario St. Inc.**

FOR PROFESSIONAL SERVICES RENDERED in the period up to and including November 30, 2025, in connection with the Court-appointed receivership proceedings.

Professional Services	Hours	Hourly Rate	Total
Mukul Manchanda, CPA, CIRP, LIT	1.50	\$575.00	\$862.50
Philip H. Gennis, LL.B., CIRP, LIT	38.75	\$575.00	\$22,281.25
Gillian Goldblatt, CPA, CA, CIRP, LIT	0.40	\$425.00	\$170.00
Paula Amaral	0.60	\$425.00	\$255.00
Dharam Tiwana	34.60	\$295.00	\$10,207.00
Manocher Sarabi	1.00	\$175.00	\$175.00
Cassandra Glover	0.20	\$110.00	\$22.00
Total Professional Services	77.05	\$440.92	\$33,972.75
HST			\$4,416.46

Reimbursable Expenses	Total
Courier	\$17.49
Total Reimbursable Expenses	\$17.49
HST on expenses	\$2.27

<b>Total</b>	<b>\$38,408.97</b>
HST Registration #R103478103 (AA1391-R)	



# SPERGEL

msi Spergel inc., Licensed Insolvency Trustees  
Head Office: 200 Yorkland Blvd., Suite 1100  
Toronto, ON., M2J 5C1  
T: 416 497 1660 • F: 416 494 7199  
[www.spergel.ca](http://www.spergel.ca)

December 30, 2025

## DRAFT

Invoice #: 1308

1391 Ontario St. Inc.

## INVOICE

### INVOICE RECONCILIATION PAGE

Date	Staff	Memo	Hours	B-Rate	Amount
<b>Professional Services</b>					
2025-06-02	PGE	Email to DT attaching recent insurance information for property; email to BDC requesting appraisals' on file; all matters in advance of appointment including receipt and review of application record and appendices; r	0.75	\$575.00	\$431.25
2025-06-03	DTI	Review applicant record, coordinate locksmith to attend property to verify if property is tenanted or vacant, review report and prepare for site visit to take possession. E-mail Cooperators to inform regarding receivership and request policy and if its in effect.	1.40	\$295.00	\$413.00
2025-06-03	PGE	Receipt of appraisal document from BDC; email from Tony Van Klink confirming the granting of the receivership order; receipt and review of judge's endorsement and signed Order; email to Rosemary Fisher requesting registration on title; file opening protocol; copy of email to locksmith regarding attendance at property; email to Interim Receiver requesting lease documents (if any);email to cooperators insurance requesting addition of Spergel to current insurance policy;	1.75	\$575.00	\$1,006.25
2025-06-04	DTI	Travel to property and meet with Locksmith, take possession of property, meet with 1 of 2 tenants on site, discuss and review property, locate keys for property and arrange for locks to be re-keyed, block off access to second and third floor, review security system in place, document meter readings for the day, prepare package for second tenant and leave under door, review leases for first tenant, discuss ongoing services being provided, ending of lease by tenant, provide update to P.Gennis. Correspond with Cooperators and get COI with msi Spergel as additional insured. Work on Notice and Statement of Receiver.	6.50	\$295.00	\$1,917.50

Barrie 705 722 5090 • Brampton 905 874 4905 • Downsview 416 633 1444 • Hamilton 905 527 2227 • London 519 902 2722 • Mississauga 905 602 4143  
Oshawa 905 721 8251 • Peterborough 705 748 3333 • Scarborough 416 642 1363 • Toronto 416 778 8813 • Vaughan 647 288 7636  
Saskatchewan 306 341 1660 • British Columbia 604 365 7434



**SPERGEL**

**msi Spergel inc.**, Licensed Insolvency Trustees  
Head Office: 200 Yorkland Blvd., Suite 1100  
Toronto, ON., M2J 5C1  
T: 416 497 1660 • F: 416 494 7199  
**www.spergel.ca**

December 30, 2025

**DRAFT****Invoice #: 1308**

1391 Ontario St. Inc.

**INVOICE**

2025-06-04	PGE	<i>receipt and review of title registration documents from Receiver's Counsel and instructing them to be forwarded to MMA for signature; email from Cooperators confirming the insurance coverage is in full force and effect and request for addition to policy as an additional named insured; email from Interim Receiver enclosing leases in his possession;</i>	1.25	\$575.00	\$718.75
2025-06-05	DTI	<i>Schedule regular inspections for property, correspond with P.Gennis to provide update regarding site visit on June 4th, correspond with WanderLust Solutions regarding property maintenance, get updates regarding current and ongoing agreements, bank accounts and expenses, review current contract in place, prepare letters for major banks to request accounts be updated to deposit only, prepare CRA authorization forms, obtain CRA account number, upload and sort supporting documents on shared drive, get updated COI, review correspondence from legal counsel regarding cautions registered on title, review introduction correspondence from D. Suitor</i>	2.80	\$295.00	\$826.00
2025-06-05	PGE	<i>Email exchanges with Debtor's property managers; email to Receiver's property manager requesting twice weekly inspections of the property given the impending vacancy; telephone discussion and email to Pat Del Sordo at Humphrey Appraisers requesting LOE with quote; email to Kevin Antonides of Antec Appraisers requesting LOE with quote; receipt and review of COI from Cooperators confirming that Spergel had been added as an additional named insured; email to realtors requesting sales and marketing proposals for property; receipt and execution of LOE for appraisal from Humphrey Appraisers; email exchange between Receiver's Counsel and Counsel for Interim Receiver regarding registration on title; email to BDC updating on matters attended to; email to Counsel requesting tax certificate from City of Burlington; email from Dylan Suitor;</i>	2.50	\$575.00	\$1,437.50

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1391 Ontario St. Inc.

**INVOICE**

2025-06-06	DTI	<i>Review correspondence from banks regarding letters sent, review bank statements for BMO and confirm account is placed on deposit only, request new bank account, review e-mails and coordinate a site visit with Humphries Appraisal, provide details regarding tenants, building, operations and expenses, coordinate site visit with Avison Young for listing proposal, provide necessary property details.</i>	1.70	\$295.00	\$501.50
2025-06-06	PGE	<i>internal email exchange regarding recovery of funds in Debtor's BMO account; email exchange with Pat Del Sordo regarding access to premises; receipt and review of tax certificate; email from Kelly Avison; email to appraisers enclosing tax certificate;</i>	1.00	\$575.00	\$575.00
2025-06-09	PGE	<i>Review and sign LOE from Antec Appraisers;</i>	0.20	\$575.00	\$115.00
2025-06-09	DTI	<i>Review correspondence from BNS regarding account request.</i>	0.10	\$295.00	\$29.50
2025-06-10	PGE	<i>Email exchange with Counsel regarding execution of title registration documents;</i>	0.25	\$575.00	\$143.75
2025-06-10	DTI	<i>Review application record, prepare Notice and Statement of receiver, prepare forms for CRA RT0002 account and offline access. Review documentation received from Wanderlust regarding utilities, bank accounts.</i>	1.80	\$295.00	\$531.00
2025-06-11	PGE	<i>Receipt and review of security opinion from Receiver's Counsel; receipt of title registration documents; review and execution of Notice and Statement (BIA) and CRA Authorizations;</i>	0.50	\$575.00	\$287.50
2025-06-12	PGE	<i>Receipt and review of updated parcel register for property; receipt and review of sale and marketing proposal from Cushman and Wakefield;</i>	0.50	\$575.00	\$287.50
2025-06-16	PGE	<i>Email exchanges with Humphrey Appraisers enclosing floor plans and other documentation; emails to utilities; email exchange with Antec Appraisers;</i>	0.50	\$575.00	\$287.50

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2025-06-16	DTI	<i>Visit site, take pictures and provide update to Humphries, meet with tenant and discuss property, discover locked room with furniture is no longer accessible and furniture inside is missing, compare to pictures from previous week, correspond with R.Tuzi to arrange visit and re-secure property.</i>	1.10	\$295.00	\$324.50
2025-06-17	MMA	<i>Receipt and review of receivership certificate.</i>	0.10	\$575.00	\$57.50
2025-06-17	DTI	<i>Correspond with Humphries, organize and resend pictures for appraisal. Request new bank account, prepare letters to utility companies and request new accounts under receivership, notify P.Gennis regarding furniture that was removed from property, investigate feasibility of new security system, correspond with tenants new door code for access, review correspondence from tenant in Office 2, update file notes and attend to questions regarding property management, maintenance, request new quotes for property maintenance, review appraisal agreements and coordinate site visits to conduct appraisals.</i>	3.20	\$295.00	\$944.00
2025-06-18	DTI	<i>Correspondence with Dr.Gray regarding unit 2, answer questions, advance file in Ascend, coordinate transfer of bank balance to trust account, inform tenant regarding trust account for rent payment, discuss landscaping and property management with R.Tuzi and request quote. Review e-mail from Cooperators regarding insurance payments and advise receiver will be looking to make payments.</i>	1.20	\$295.00	\$354.00
2025-06-19	DTI	<i>Correspondence with P. Del Sordo from Humphreys regarding appraisal, answer questions regarding property and leases, correspond with BMO to confirm transfer of funds to trust account. Correspond with P.Gennis to provide update. Correspond with R.Tuzi regarding property maintenance and visit, follow up with Wanderlust to inquire about insurance.</i>	0.70	\$295.00	\$206.50
2025-06-19	PGE	<i>Email exchange with current insurer; email exchange with BMO regarding bank accounts; email exchange with current property manager; email exchange with Dylan Suitor regarding prior offers and frivolous construction lien claimant; forwarding email to Receiver's Counsel;</i>	0.50	\$575.00	\$287.50
2025-06-20	PGE	<i>Receipt and review of Humphreys Appraisal;</i>	0.25	\$575.00	\$143.75

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2025-06-21	PGE	Email exchange with Dylan Suitor regarding an agent with a prospective purchaser;	0.25	\$575.00	\$143.75
2025-06-23	DTI	Review correspondence from Co-operators, request invoices to process payments. Review receipts from BMO, prepare deposit requisitions.	0.50	\$295.00	\$147.50
2025-06-23	PGE	Receipt and review of Listing Proposal submitted by Avison Young; email exchange with current insurance broker;	0.30	\$575.00	\$172.50
2025-06-24	PGE	Email exchange with Debtor's property manager;	0.10	\$575.00	\$57.50
2025-06-25	PGE	Email from current property insurer regarding protocol for payment of premiums;	0.10	\$575.00	\$57.50
2025-06-26	PGE	Email to insurance broker requesting coverage as an additional named insured; follow up email to current ppty manager regarding liability insurance and WSIB clearamce;	0.20	\$575.00	\$115.00
2025-06-26	DTI	Follow up with Wanderlust Solutions regarding WSIB certificate	0.10	\$295.00	\$29.50
2025-06-27	PGE	Follow up email to Kelly Avison requesting ETA for listing proposal; follow up email to Antec Appraisers requesting ETA for appraisal; receipt and review of current property management agreement; email to current insurer;	0.30	\$575.00	\$172.50
2025-06-27	DTI	Discuss contract for Wander-lust with P.Gennis, correspond with Co-Operators to continue insurance coverage while payment arrangements are made.	0.30	\$295.00	\$88.50
2025-06-28	PGE	Email to Receiver's Counsel requesting a draft of a simple form management agreement;	0.10	\$575.00	\$57.50
2025-06-30	DTI	Review correspondence from tenant regarding upkeep on property, correspond with P.Gennis. Review correspondence with counsel regarding contract for property management, review site visit report from Lockit.	0.30	\$295.00	\$88.50
2025-06-30	PGE	Email from tenant regarding upkeep of ppty; email to old ppty manager; review of projected borrowing budget prior to transmittal to BDC; internal email exchange regarding terms of proposed ppty management agreement; email to BDC enclosing budget in support of \$20K initial borrowing; follow-up telephone discysson with BDC;	0.50	\$575.00	\$287.50

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2025-07-01	PGE	Email from Dylan Sutor enclosing correspondence from CRA regarding outstanding HST returns;	0.10	\$575.00	\$57.50
2025-07-02	DTI	Multiple e-mails and phone calls with tenants, property management, R.Tuzi and P.Gennis regarding property upkeep.	1.00	\$295.00	\$295.00
2025-07-02	PGE	Email from Cooperators Insurance regarding current policy; email exchange with former ppty manager; telephone discussion and email correspondence to BDC with projected budget and draft Receiver's Borrowing Certificate attached; prior review of budget; email exchange with tenant regarding ppty management issues;	0.60	\$575.00	\$345.00
2025-07-03	DTI	Correspond with tenants regarding maintenance issues, correspond with R.Tuzi and third parties to request quotes.	0.40	\$295.00	\$118.00
2025-07-03	PGE	Email exchange with tenant; email exchange with property managers; email with Receiver's Counsel; internal email exchange with DT regarding tenancies and property management;	0.75	\$575.00	\$431.25
2025-07-04	DTI	Locate cleaning services in Burlington, reach out and request quotes, send pictures for estimates. Correspond with tenants regarding property. Correspondence with D.Sutor regarding Wanderlust Solutions, possible resumption of services.	1.50	\$295.00	\$442.50
2025-07-04	PGE	further email exchanges with prospective property managers; further review of email from Daryl Sutor regarding Construction Lien; email from Gianna Torelli at BDC; email regarding exterior lawncare to be done on an immediate basis; email exchange with tenant in this regard; further email exchange with Dylan Sutor regarding engaging property manager; email from Dylan Sutor enclosing HST pending cancellation; multiple emails between former property manager regarding engagement going forward;	0.75	\$575.00	\$431.25
2025-07-04	PAM	Receipt and review email regarding exterior maintenance of property.	0.10	\$425.00	\$42.50
2025-07-05	PGE	Email to DH regarding insurance coverage;	0.10	\$575.00	\$57.50
2025-07-07	DTI	Correspondence with S.Zazulyk regarding quote requested. review correspondence from Wanderlust and principal of company, correspond with Wanderlust details of new agreement, provide updates to P.Gennis.	1.00	\$295.00	\$295.00
2025-07-07	PGE	Multiple emails regarding on-going property management; email to Dylan Sutor regarding unfiled HST Returns;	0.50	\$575.00	\$287.50

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2025-07-08	PGE	Email from Michael Yull at Cushman Wakefield following up on listing proposal; preparation of property management agreement and draft APS and transmittal of same to Counsel for review; receipt and review of listing proposals from CW and AY and transmittal of same to Bank for review and comment; telephone discussion in this regard with Gianna Torelli at BDC; internal email exchange regarding revenue and expense analysis in advance of listing; internal email exchange regarding tenant wishing to extend departure by one month;	3.00	\$575.00	\$1,725.00
2025-07-09	DTI	Correspondence with Wanderlust regarding property management services at property, provide updated door code, correspondence with Co-operators regarding insurance, correspond with P.Gennis, confirm advance received from BDC.	0.30	\$295.00	\$88.50
2025-07-09	PGE	Email exchange with property managers; email from Counsel with proposed revisions to property management agreement; email from current insurer on the property; email exchange with Humphrey Appraisals; email from Antec Appraisers with draft appraisal attached; review of draft appraisal from Antec; email to Antec requesting final appraisal; email from Receiver's Counsel with revisions to draft APS; telephone discussion with BDC regarding listing proposals and follow up email from Bank confirming choice of listing broker and confirmation of wire transfer of borrowed funds; email confirmation receipt of Receiver's borrowing; completion of borrowing certificate and transmittal to BDC; email to Cushman Wakefield requesting listing agreement with usual precedent attached; email to unsuccessful broker;	2.00	\$575.00	\$1,150.00
2025-07-10	DTI	Correspondence with tenant in Office 5 regarding extension of lease, discuss services being resumed by Wanderlust, conditions for extension, discuss with P.Gennis, review outstanding bills, prepare cheque requisitions and get approved, review correspondence regarding listing.	1.50	\$295.00	\$442.50
2025-07-10	MMA	Receipt, review, and sign the listing agreement.	0.30	\$575.00	\$172.50

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### INVOICE

2025-07-10	PGE	Email from BDC confirming wiring of funds; internal email exchange regarding file payables; receipt and review of CW listing agreement and MLS data sheet; and transmittal to MMA for execution; transmittal of property management agreement for execution by property managers; email exchange with tenant regarding timing of janitorial services; review and approve payable;	1.60	\$575.00	\$920.00
2025-07-11	GGO	Receive and review bank reconciliation.	0.10	\$425.00	\$42.50
2025-07-11	DTI	Review service agreement, send to Grow for signing, verify payment processing for insurance.	0.30	\$295.00	\$88.50
2025-07-11	PGE	Follow up email to property managers regarding execution of ppty management agreement; review of data room prepared by CW; transmittal of signed borrowing certificate to BDC together with copy of Humphreys appraisal as requested; transmittal of revised APS to CW for inclusion in data room;	1.00	\$575.00	\$575.00
2025-07-14	DTI	Correspondence with R.Tuzi and Cushman to confirm photoshoot for property on Wednesday, review cheque and correspond with Humphreys to verify address.	0.20	\$295.00	\$59.00
2025-07-14	PGE	Email from BDC regarding borrowing; receipt of final Antec appraisal; review and approve payables; receipt and review of proposed revisions to property management agreement from property managers deleting snow removal from task list; internal email regarding snow removal; transmittal of Antec appraisal to BDC as requested; email from tenant;	1.25	\$575.00	\$718.75
2025-07-15	DTI	Correspondence with Co-operators regarding insurance policy, confirm it is still in effect, request pay statements going forward, correspondence with Wanderlust regarding contract and snow removal, verify services resumed, correspond with ML6 regarding extension of lease for August.	0.50	\$295.00	\$147.50
2025-07-15	PGE	Email exchange with insurance broker regarding premium arrears; email exchange with BDC regarding list price; email to property manager regarding interior cleaning; email exchange with tenant who had vacated premises;	0.30	\$575.00	\$172.50
2025-07-16	PGE	Call with Gianna Torelli at BDC regarding list price; email exchange with ppty managers;	0.30	\$575.00	\$172.50

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2025-07-16	DTI	Correspondence with tenant regarding regarding lease extension, confirm maintenance services resumed, speak with R.Tuzi regarding property, discover tenant in Office 2 vacated, inquire about Unit 2 keys, request return of keys from tenant.	0.40	\$295.00	\$118.00
2025-07-17	PGE	Further emails to property managers and insurance broker;	0.25	\$575.00	\$143.75
2025-07-18	PGE	Review and approve payable from ppty manager;	0.20	\$575.00	\$115.00
2025-07-21	PGE	Email exchange with CW regarding access for showing;	0.10	\$575.00	\$57.50
2025-07-22	DTI	Correspondence with Cushman & Wakefield regarding property, booked showings, arrange for keys to be couriered over, discuss property details, tenant leases with P.Gennis, discuss access to property with R.Tuzi.	0.70	\$295.00	\$206.50
2025-07-22	PGE	Further email exchange regarding access by CW for showing;	0.20	\$575.00	\$115.00
2025-07-25	PGE	Email from tenant terminating lease of premises; responding emails to vacating tenant;	0.20	\$575.00	\$115.00
2025-07-30	DTI	Correspondence with Cushman Wakefield and the tenants. Follow-up with office 2 to request return of key.	0.30	\$295.00	\$88.50
2025-07-30	PGE	Receipt of notice from Cogeco regarding suspension of service;	0.10	\$575.00	\$57.50
2025-07-31	DTI	Correspond with tenant regarding property maintenance, property showing, prepare cheque requisitions for outstanding amounts, review mail and prepare deposit requisition for Enbridge refund, review correspondence regarding outstanding cogeco bill.	1.20	\$295.00	\$354.00
2025-07-31	PGE	Review and approve payable; email exchange regarding Cogeco suspension;	0.20	\$575.00	\$115.00
2025-08-01	DTI	Calls with cleaning services, P.Gennis and R.Tuzi regarding cleaning services, follow up with Wanderlust, try to locate replacement, correspond with tenants. Correspond with Cushman regarding properties and keys.	1.00	\$295.00	\$295.00
2025-08-01	PGE	Email exchange regarding suspension of internet to the property; email exchange with sole remaining tenant; email exchange with ppty managers regarding urgent need for inside cleaning and replacement of disposables;	0.20	\$575.00	\$115.00
2025-08-02	PGE	Email exchange with ppty managers;	0.10	\$575.00	\$57.50
2025-08-03	PGE	Further email exchange with remaining tenant;	0.10	\$575.00	\$57.50

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2025-08-05	DTI	Correspondence with tenants and Wanderlust regarding cleaning.	0.40	\$295.00	\$118.00
2025-08-05	PGE	Email exchange with ppty manager; receipt and review of CW marketing brochure;	0.25	\$575.00	\$143.75
2025-08-05	PAM	Email exchanges between D.Tiwana and tenant regarding property management requests by tenant.	0.10	\$425.00	\$42.50
2025-08-08	PGE	Email from Dylan Suitor regarding recovery of personal tax documents from basement at ppty;	0.10	\$575.00	\$57.50
2025-08-08	GGO	Receive and review bank reconciliation.	0.10	\$425.00	\$42.50
2025-08-12	PGE	Email from tenant;	0.10	\$575.00	\$57.50
2025-08-13	PAM	Receive call from tenant regarding garbage and maintenance of property. Review leases and contracts with property management.	0.20	\$425.00	\$85.00
2025-08-18	DTI	Correspond with tenant regarding issues concerning garbage, discuss possible extension of lease for 2 months.	0.20	\$295.00	\$59.00
2025-08-18	PAM		0.10	\$425.00	\$42.50
2025-08-18	PAM	Discussions and email exchanges with tenant and D.Tiwana regarding extending tenancy of tenant and clean up of garbage.	0.10	\$425.00	\$42.50
2025-08-21	PGE	internal email exchange regarding extension request by last tenant in the building; email exchange with Listing Broker in this regard; telephone discussion with Listing broker; email to BDC regarding overholding tenant issue and follow-up telephone discussion with Bank;	0.75	\$575.00	\$431.25
2025-08-21	DTI		0.10	\$295.00	\$29.50
2025-08-22	PGE	Email to DT regarding overholding tenant;	0.10	\$575.00	\$57.50
2025-08-22	DTI	Review correspondence with P.Gennis and tenant regarding extension of lease until Sep 15.	0.20	\$295.00	\$59.00
2025-08-24	PGE	Email exchange with tenant regarding possible extension of tenancy;	0.25	\$575.00	\$143.75
2025-08-29	PGE	Receipt and review of marketing Summary from Listing Broker; receipt and review of APS; telephone discussion with Michael Yull with regard to current offer; telephone discussion with Gianna Torelli at RBC regarding current offer and price reduction;	0.75	\$575.00	\$431.25

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2025-09-08	PGE	Email from Gianna Torelli; telephone discussion regarding amendment to listing price; email exchange with Listing Broker requesting advice on lowering list price; email exchange with BDC regarding listing broker recommendation; receipt and review of Listing Amendment Agreement and forwarding same to MMA for execution; receipt and transmittal of listing amendment to listing broker	1.00	\$575.00	\$575.00
2025-09-08	MMA	Review and sign listing agreement.	0.30	\$575.00	\$172.50
2025-09-08	CGL	Administrative work including the forwarding of documents for approval and return to counsel.	0.20	\$110.00	\$22.00
2025-09-09	PGE	Email exchange with Bank regarding COI; transmittal to COI to BDC;	0.25	\$575.00	\$143.75
2025-09-12	GGO	Receive and review bank reconciliation.	0.10	\$425.00	\$42.50
2025-09-14	PGE	Email from ppty manager;	0.10	\$575.00	\$57.50
2025-09-15	DTI	Correspondence from Wander-lust, discuss with Receiver regarding ongoing services, Contact Burlington Hydro to finish setting up account.	0.40	\$295.00	\$118.00
2025-09-15	PGE	Internal email regarding clean-up of building given the departure of last tenant;	0.10	\$575.00	\$57.50
2025-09-16	PGE	Email exchange with listing broker regarding single offer on the property; telephone discussion with broker in this regard;	0.50	\$575.00	\$287.50
2025-09-17	PGE	Further email exchange with listing broker regarding offer with recommendations on a proposed counter-offer; telephone discussion with broker;	0.50	\$575.00	\$287.50
2025-09-18	PGE	Email from ppty manager;	0.10	\$575.00	\$57.50
2025-09-19	PGE	Further email exchange with broker; telephone discussion with broker;	0.30	\$575.00	\$172.50
2025-09-21	PGE	Email to BDC summarizing broker recommendations regarding counter-offer;	0.20	\$575.00	\$115.00

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Saskatchewan 306 341 1660 • British Columbia 604 365 7434



# SPERGEL

**msi Spergel inc.**, Licensed Insolvency Trustees  
Head Office: 200 Yorkland Blvd., Suite 1100  
Toronto, ON., M2J 5C1  
T: 416 497 1660 • F: 416 494 7199  
**www.spergel.ca**

December 30, 2025

## DRAFT

**Invoice #: 1308**

1391 Ontario St. Inc.

### INVOICE

2025-09-22	PGE	Email from BDC confirming position regarding counter-offer as recommended by broker; further email exchange with broker regarding proposed counter-offer;	0.30	\$575.00	\$172.50
2025-09-25	PGE	Receipt and review of sales marketing summary from Listing broker; internal email to DT requesting confirmation of departure of last tenant;	0.25	\$575.00	\$143.75
2025-09-25	DTI	Correspondence with R.Tuzi and property inspector to confirm property is vacant.	0.20	\$295.00	\$59.00
2025-09-26	DTI	Review inspection report by LockIt, upload to shared drive.	0.10	\$295.00	\$29.50
2025-09-26	PGE	Email confirming departure of tenant; revise Purchaser's Offer with redline changes (unsigned) by way of counter-offer; transmittal to listing broker for presentation to Purchaser;	0.50	\$575.00	\$287.50
2025-09-30	DTI	Review site inspection report by Lockit, upload to shared drive.	0.10	\$295.00	\$29.50
2025-10-03	PGE	Draft Vendor counter offer and transmittal to listing broker for presentation to Purchaser;	0.50	\$575.00	\$287.50
2025-10-08	PGE	Email from listing broker regarding response to counter-offer;	0.10	\$575.00	\$57.50
2025-10-09	DTI	Phone call with Lockit regarding property, ensure property is vacated and lock combinations changed. Update listing agent.	0.30	\$295.00	\$88.50
2025-10-14	GGO	Receive and review bank reconciliation.	0.10	\$425.00	\$42.50
2025-10-15	PGE	Email exchange with listing broker;	0.25	\$575.00	\$143.75
2025-10-16	DTI	Correspondence with R.Tuzi, have door code changed and provide updated code to listing agent.	0.10	\$295.00	\$29.50
2025-10-17	PGE	Further email exchange and telephone discussion with listing broker regarding lack of interest in property; receipt and review of marketing report from listing broker; email exchange with Gianna Torelli at BDC regarding counter-offer and current market interest and recommendation regarding price reduction; receipt and review of listing amendment and arranging for execution by MMA;	0.50	\$575.00	\$287.50
2025-10-20	MMA	Receipt and review of email exchanges with D. Malek (Cushman and Wakefield) regarding listing amendment, review and sign same.	0.50	\$575.00	\$287.50
2025-10-20	PGE	Email exchange with Bank and with listing broker confirming price reduction;	0.25	\$575.00	\$143.75

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Saskatchewan 306 341 1660 • British Columbia 604 365 7434

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December 30, 2025

**DRAFT****Invoice #: 1308**

1391 Ontario St. Inc.

**INVOICE**

2025-10-23	PGE	Email from BDC requesting confirmation of price reduction; email exchange with listing broker regarding execution of listing amendment;	0.20	\$575.00	\$115.00
2025-10-24	MMA	Review and sign the listing amendment and email exchanges with P. Gennis regarding same.	0.30	\$575.00	\$172.50
2025-10-24	PGE	Further email exchange with listing broker expediting finalization of listing amendment; email exchange with MMA confirming execution of amendment and transmittal of signed amendment to listing broker and to BDC;	0.50	\$575.00	\$287.50
2025-10-31	PGE	Email from listing broker confirming unwillingness of Purchaser to increase offer price; lengthy telephone discussion with listing broker in this regard;	0.30	\$575.00	\$172.50
2025-11-06	PGE	Telephone discussion with listing broker regarding status of discussions with sole purchaser;	0.25	\$575.00	\$143.75
2025-11-10	PGE	Email exchange with Listing Broker regarding extension of listing agreement; receipt and review of listing extension and arranging for execution by MMA;	0.50	\$575.00	\$287.50
2025-11-13	PGE	Email exchange with listing broker requesting guidance on continued marketing of ppty;	0.25	\$575.00	\$143.75
2025-11-17	MSR	Phone call with Hydro company regarding the reconnection of service and coordinated with the inspectors to provide them with access to the property.	1.00	\$175.00	\$175.00
2025-11-18	PGE	Email exchange with BDC regarding status of sales process; receipt and review of marketing report from listing broker and transmittal of same to BDC;	0.50	\$575.00	\$287.50
2025-11-24	DTI	Review property inspection report, upload to shared drive.	0.10	\$295.00	\$29.50
2025-11-25	PGE	Receipt and review of APS sent by listing broker;; discussion with broker regarding proposed damage threshold; transmittal of APS to Counsel for review as regards damage threshold; instructing Counsel to discuss with Counsel for Bank;	0.75	\$575.00	\$431.25
2025-11-27	DTI	Correspondence with P.Gennis regarding property, review insurance, follow up with Co-operators.	0.40	\$295.00	\$118.00

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December 30, 2025

**DRAFT**

**Invoice #: 1308**

1391 Ontario St. Inc.

## INVOICE

2025-11-27	PGE	Email exchange with Counsel regarding APS; responding to purchaser enquiries regarding ppty management and insurance; email with insurance broker regarding policy renewal; email exchange between Receiver's Counsel and Counsel for Purchaser regarding damage threshold;	0.75	\$575.00	\$431.25
2025-11-28	PGE	Email exchange with BDC; email from insurance broker confirming acceptance of lower damage threshold; email exchange with listing broke regarding finalizing APS;	0.75	\$575.00	\$431.25
<b>Professional Services Total:</b>			<b>77.05</b>		<b>\$33,972.75</b>

### Reimbursable Expenses

2025-08-19	NTA				\$17.49
<b>Reimbursable Expenses Total:</b>			<b>1.00</b>		<b>\$17.49</b>

# APPENDIX 8

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

BUSINESS DEVELOPMENT BANK OF CANADA

Applicant

- and -

1391 ONTARIO ST. INC.

Respondent

**AFFIDAVIT OF ROSEMARY FISHER  
(Sworn: January 7, 2026)**

I, Rosemary Fisher, of the City of Burlington, in the Province of Ontario **MAKE  
OATH AND SAY:**

1. I am a partner with SimpsonWigle Law LLP, the legal counsel to the Court-appointed Receiver (the “**Receiver**”) of 1391 Ontario St. Inc. (the “**Debtor**”), and, as such, have knowledge of the matters deposed to herein, except where such knowledge is stated to be based on information and belief, in which case I state the source of the information and verily believe such information to be true.
2. The accounts attached hereto and referenced below and the work done as reflected therein was necessary.
3. The Receiver was appointed, without security, of the assets, undertakings and properties of the Debtor by Court Order dated June 3, 2025.
4. In our capacity as legal counsel to the Receiver, we have prepared a Statement of Account in connection with our role detailing our services rendered and

disbursements incurred for the period up to and including January 7, 2026, for the sum of \$11,956.46, inclusive of HST and disbursements. Attached hereto and marked as Exhibit "A" to this my Affidavit is a true copy of the Statement of Account.

5. This Affidavit is made in support of a Motion to, *inter alia*, approve the receipts and disbursements of the Receiver and the accounts of its counsel and for no improper purpose.

SWORN before me at the City of  
Burlington, in the Province of Ontario  
This 7<sup>th</sup> day of January, 2026



\_\_\_\_\_  
A Commissioner, etc.

**TANISHA ELAINE LASHLEY**

A Commissioner, etc., Province of Ontario,  
for SimpsonWigle LAW LLP,  
Expires April 5, 2027.



\_\_\_\_\_  
**ROSEMARY FISHER**



This is **Exhibit “A”** referred to in the Affidavit of Rosemary Fisher sworn January 7, 2026



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*Commissioner for Taking Affidavits (or as may be)*

**TANISHA ELAINE LASHLEY**

A Commissioner, etc., Province of Ontario,  
for SimpsonWigle LAW LLP,  
Expires April 5, 2027.

**Matter Billing Guide**  
**for SimpsonWigle LAW LLP**  
**as at 07 Jan 2026**



**Filtered by Matter - MAT91787**

**Excluding Pre-Bill Items**

<b>Matter No.:</b>	MAT91787	<b>Client No.:</b>	CNT43398
<b>Matter Name:</b>	Receivership of 1391 Ontario St. Inc.		
<b>Description:</b>	-		
<b>Client:</b>	msi Spergel Inc.	<b>Department:</b>	140 - Litigation (Levy)
<b>Address:</b>	21 King Street West, Suite 1602, Box 54 Hamilton, ON L8P 4W7, Canada	<b>Owner:</b>	Rosemary A Fisher
		<b>Current Owner:</b>	Rosemary A Fisher
		<b>Legacy Ref:</b>	-
<b>Att:</b>	-	<b>Date Opened:</b>	06 May 25
<b>Client Ref:</b>		<b>Fee Schedule:</b>	_Rate 0
<b>Client Tax No.:</b>	N/A	<b>Invoice Template:</b>	1A - FE and Rate Summary without amounts (without tirm
		<b>Discount:</b>	0.00%
<b>A/R:</b>	0.00	<b>Unbilled Fees:</b>	10,106.50
<b>Trust:</b>	0.00	<b>Unbillable Fees:</b>	0.00
<b>Reserve Trust:</b>	0.00	<b>Unbilled Disb:</b>	494.80
<b>Investment:</b>	0.00	<b>Unbilled Time:</b>	19.90
		<b>Unbillable Time:</b>	0.00
<b>Last Invoice Date:</b>	-	<b>Last Billable Date:</b>	07 Jan 26
<b>Transfer Notes:</b>			
		<b>Discount Notes:</b>	

**Fee Earner Summary**

Code	Fee Earner	Time (hh)	Fees	Write U/D	Notes
GNK	Gokcin Nalsok	7.20	4,104.00		
RAF	Rosemary A Fisher	8.40	5,250.00		
TEL	Tanisha E Lashley	4.30	752.50		

**Unbilled Fees**

Date	FE	Activity	Description	Unit Type	Expl Code	Rate/Unit	Time (hh)	Amount	Tax	Total Incl
02 May 25	RAF	23	review email from T. Van Klink; reply;	T	-	625.00	0.10	62.50	8.13	70.63
05 May 25	RAF	23	review email from T. Van Klink re draft Order; engaged in review of same; and report to client; review email from client; discussion with T. Van Klink;	T	-	625.00	0.50	312.50	40.63	353.13
05 May 25	RAF	07	engaged in review of Affidavit of G. Torrelli; discussion with T. Van Klink ; email to client; email to T. Van Klink;	T	-	625.00	0.30	187.50	24.38	211.88
21 May 25	RAF	03	receive and review letter from T. Vanklink Factum;	T	-	625.00	0.20	125.00	16.25	141.25
03 Jun 25	RAF	23	review email from T. Van Klink re Order granted; review email from P. Gennis re register Order; memo to G. Nalsok and S. Fan re registering Order;	T	-	625.00	0.40	250.00	32.50	282.50

## Unbilled Fees

Date	FE	Activity	Description	Unit Type	Expl Code	Rate/Unit	Time (hh)	Amount	Tax	Total Incl
04 Jun 25	GNK	-	pull and review parcel search to ensure there is not a no dealings indicator; draft and finalize application to register court order; note a previous interim receiver order registered; email previous solicitor that completed registration and ask for removal; prepare AD&D and email msi Spergel for review and signature; email R. Fisher re current state of parcel search and in particular regarding the error order registered	T	-	570.00	0.80	456.00	59.28	515.28
04 Jun 25	RAF	23	review email from G. Nalsok re construction lien; email to P. Gennis; discussion with P. Gennis re vetting security;	T	-	625.00	0.30	187.50	24.38	211.88
05 Jun 25	RAF	01	telephone call with F. Tayar; email to G. Nalsok and P. Gennis;	T	-	625.00	0.30	187.50	24.38	211.88
05 Jun 25	RAF	01	telephone call with P. Gennis re appraisers; review email from G. Nalsok; discussion with D. Goldberg; email to F. Tayar;	T	-	625.00	0.40	250.00	32.50	282.50
06 Jun 25	RAF	19	preparation of memorandum to real estate clerk; review email from client;	T	-	625.00	0.10	62.50	8.13	70.63
10 Jun 25	RAF	07	engaged in review of loan and security documentation; title search; order PPSA search; preliminary preparation of security vetting opinion; email to T. Van Klink re GSA/mortgage; receive and review;	T	-	625.00	0.80	500.00	65.00	565.00
10 Jun 25	RAF	01	finalize vetting opinion;	T	-	625.00	0.30	187.50	24.38	211.88
11 Jun 25	RAF	23	review email from G. Nalsok re registered Court Order; forward to client;	T	-	625.00	0.20	125.00	16.25	141.25
11 Jun 25	GNK	-	prepare DocuSign for signature and send; receipt of same; finalize court order and attend to registration	T	-	570.00	0.40	228.00	29.64	257.64
12 Jun 25	RAF	23	review email from clerk; review searches and report to client;	T	-	625.00	0.20	125.00	16.25	141.25
30 Jun 25	RAF	01	telephone call with P. Gennis re Manager Agreement; engaged in review of Agreement/emails;	T	-	625.00	0.90	562.50	73.13	635.63
			preparation of Manager's Agreement; send draft to client;							
03 Jul 25	RAF	01	telephone call with P. Gennis; seek property manager;	T	-	625.00	0.20	125.00	16.25	141.25
03 Jul 25	RAF	22	email to Receiver re property manager information;	T	-	625.00	0.10	62.50	8.13	70.63
07 Jul 25	RAF	01	telephone call with Receiver re former property manager; post receivership HST; revisions to draft;	T	-	625.00	0.40	250.00	32.50	282.50
09 Jul 25	RAF	23	review email from P. Gennis; review of Property Management Report; revise; engaged in review of draft APS; email client;	T	-	625.00	0.40	250.00	32.50	282.50
04 Nov 25	RAF	01	telephone call with Lauren at McKenzie Lake; review email Lauren; advise client;	T	-	625.00	0.30	187.50	24.38	211.88
26 Nov 25	RAF	23	review email from client; review APS; discussion with client; B. Mullin; exchange with Mullin's office;	T	-	625.00	0.40	250.00	32.50	282.50
27 Nov 25	RAF	23	review email from L. Sigouin re \$100k; advise Receiver;	T	-	625.00	0.10	62.50	8.13	70.63
27 Nov 25	RAF	22	email to T. Van Klink; discussion;	T	-	625.00	0.30	187.50	24.38	211.88
02 Dec 25	RAF	23	review email from P. Gennis re APS signed;	T	-	625.00	0.10	62.50	8.13	70.63

Unbilled Fees

Date	FE	Activity	Description	Unit Type	Expl Code	Rate/Unit	Time (hh)	Amount	Tax	Total Incl
03 Dec 25	RAF	23	review email from B. Mullin re deposit; reply;	T	-	625.00	0.10	62.50	8.13	70.63
09 Dec 25	RAF	23	review email from client; reply; discussion with P. Gennis;	T	-	625.00	0.10	62.50	8.13	70.63
17 Dec 25	RAF	22	email to P Gennis;	T	-	625.00	0.10	62.50	8.13	70.63
31 Dec 25	RAF	23	review email from P. Gennis re Waiver - APS firm;	T	-	625.00	0.10	62.50	8.13	70.63
02 Jan 26	RAF	23	review email from P. Gennis; draft report; engaged in review of same; revisions thereto;	T	-	625.00	0.50	312.50	40.63	353.13
05 Jan 26	RAF	19	preparation of memorandum to clerk re AVO Motion;	T	-	625.00	0.20	125.00	16.25	141.25
07 Jan 26	GNK	A111	emails and reviewing parcel search and reply with permitted encumbrances and deletions	T	-	570.00	6.00	3,420.00	444.60	3,864.60
07 Jan 26	TEL	09	preparation of Notice of Motion; review draft Order and create blacklined Order for motion; preparation of Fee Affidavit; prepare Service List;	T	-	175.00	4.30	752.50	97.83	850.33
Total Unbilled Fees							19.90	10,106.50	1,313.94	11,420.44

Unbilled Disbursements

Date	Activity	Description	Unit Type	Amount	Tax	Total Incl
06 May 25	E101	Photocopies Cost	F	30.00	3.90	33.90
06 May 25		Transaction Levy: Litigation	U	100.00	13.00	113.00
06 May 25	13	File Administration Fee	F	95.00	12.35	107.35
04 Jun 25	06	Search/Teraview	U	6.00	0.78	6.78
10 Jun 25	ESC Reg Amount	Debtor Search - Registry Amount	F	8.00	0.00	8.00
10 Jun 25	ESC Charges	Debtor Search - Service Fee	F	10.00	1.30	11.30
11 Jun 25	34	Cheque payment to SimpsonWigle ERBA - Registration	U	70.90	0.00	70.90
11 Jun 25	34	Cheque payment to SimpsonWigle ERBA - Registration	U	11.80	1.53	13.33
12 Jun 25	06	Search/Teraview	U	11.85	0.00	11.85
12 Jun 25	06	Search/Teraview	U	38.05	4.95	43.00
07 Jan 26	06	Search/Teraview	U	11.95	0.00	11.95
07 Jan 26	06	Search/Teraview	U	26.25	3.41	29.66
07 Jan 26	10	Sundry Miscellaneous- Tax Certificate	U	75.00	0.00	75.00
Total Unbilled Disbursements				494.80	41.22	536.02

Trust Statement

Date	Description	Payments	Receipts	Balance
20 May 25	Received EFT from David A Witzel - Retainer	0.00	1,000.00	1,000.00
11 Jun 25	ER PAYMENTS ERBA TRUST REC/DISB	84.23	0.00	915.77
11 Jun 25	ER RECEIPTS ERBA TRUST REC/DISB	0.00	84.23	1,000.00
01 Jul 25	Reverse Receipt TR01-8711	0.00	-1,000.00	0.00
Total		84.23	84.23	0.00

BUSINESS DEVELOPMENT BANK OF CANADA  
Applicant

-and- 1391 ONTARIO ST. INC.  
Respondent

Court File No. CV-25-00090112-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT HAMILTON

**FEE AFFIDAVIT OF ROSEMARY FISHER**

**SimpsonWigle LAW LLP**

1006 Skyview Drive, Suite 103  
Burlington, Ontario  
L7P 0V1

**Rosemary A. Fisher (LSO# 32238T)**

Email: fisherr@simpsonwigle.com  
Tel: (905) 639-1052

Lawyers for the Receiver, msi Spergel Inc.

# APPENDIX 9

District of  
Division No. 9 - Mississauga  
Court No. 32-159617  
Estate No. 32-159617

**In the matter of the Receivership of  
1391 Ontario St. Inc.  
of the City of Burlington, in the Province of Ontario**

Receiver's Statement of Receipts and Disbursements  
As at December 31, 2025

**RECEIPTS**

1	Miscellaneous		
	Advance from secured creditors	\$	20,000.00
	Refunds - miscellaneous		420.65
	Rental income		5,932.50
	Interest allocation		205.53
<b>TOTAL RECEIPTS</b>			<b><u>26,558.68</u></b>

**DISBURSEMENTS**

2.	Federal and Provincial taxes		
	HST on Ascend License Fee		42.25
	HST paid on disbursements exclusive of fees		1,041.06
			<b><u>1,083.31</u></b>
3.	Miscellaneous		
	Appraisal fees		6,357.45
	Ascend License Fee		325.00
	Cleaning service		325.06
	Filing Fees Paid to Official Receiver		83.96
	Insurance		1,546.29
	Travel		103.68
	Utilities		1,527.51
			<b><u>10,268.95</u></b>
<b>TOTAL DISBURSEMENTS</b>			<b><u>11,352.26</u></b>
Net Receipts over Disbursements			<b><u>15,206.42</u></b>
			<b>E&amp;EO</b>

# APPENDIX 10



## RECEIVER CERTIFICATE

CERTIFICATE NO. 1

AMOUNT \$20,000.00

1. THIS IS TO CERTIFY that msi Spergel Inc., the receiver (the "Receiver") of the real property located at 1391 Ontario Street, Burlington, Ontario and the proceeds thereof (the "Property") appointed by Order of the Ontario Superior Court of Justice (the "Court") dated the 3rd day of June, 2025 (the "Order") made in an action having Court file number CV-25-00090112-0000, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$20,000.00, being part of the total principal sum of \$250,000 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 monthly not in advance on the last day of each month after the date hereof at a notional rate per annum equal to the floating base rate of Business Development of Canada 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.

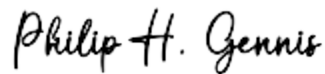
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

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 7th day of July, 2025.

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

Per:



---

Name: Philip H. Gennis JD., CIRP., LIT

Title: Licensed Insolvency Trustee

BUSINESS DEVELOPMENT  
BANK OF CANADA

and

1391 ONTARIO STREET INC.

Court File No.: CV-25-00090112-0000

Applicant

Respondent

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at HAMILTON

**RECEIVER CERTIFICATE**

**MILLER THOMSON LLP**

One London Place  
255 Queens Avenue, Suite 2010  
London, ON Canada N6A 5R8

**Tony Van Klink** LSO#: 29008M  
tvanklink@millerthomson.com  
Tel: 519.931.3509  
Fax: 519.858.8511

**Lawyers for the Applicant,  
Business Development Bank of Canada**

# APPENDIX 11

PROPERTY DESCRIPTION: PT LTS 14, 15 & 16 , PL 90 , AS IN 854221, EXCEPT PT 2, 20R5222, T/W 589292 ; BURLINGTON

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE  
LT CONVERSION QUALIFIED

RECENTLY:

FIRST CONVERSION FROM BOOK

PIN CREATION DATE:

1996/12/16

OWNERS' NAMES

1391 ONTARIO ST. INC.

CAPACITY SHARE

ROWN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
<div><div><div>**EFFECTIVE 2000/07/29</div><div>**WAS REPLACED WITH THE</div><div>** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND</div><div>**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:</div><div>**</div><div>**</div><div>**</div><div>**</div><div>**</div><div>**</div><div>**DATE OF CONVERSION TO</div></div><div><div>THE NOTATION OF THE</div><div>"PIN CREATION DATE" OF 1996/12/16**</div><div>DELETED INSTRUMENTS SINCE 1996/12/13 **</div><div>LAND TITLES ACT, TO:</div><div>SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES</div><div>AND ESCHEATS OR FORFEITURE TO THE CROWN.</div><div>THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF</div><div>IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY</div><div>CONVENTION.</div><div>ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.</div><div>LAND TITLES: 1996/12/16 **</div></div></div>						
119980	1961/01/25	BYLAW				C
214355	1966/11/25	AGREEMENT				C
534022	1981/01/07	AGREEMENT			THE CORPORATION OF THE CITY OF BURLINGTON	C
534023	1981/01/07	AGREEMENT			THE CORPORATION OF THE CITY OF BURLINGTON	C
748726	1990/07/31	CHARGE		*** COMPLETELY DELETED ***	CIBC MORTGAGE CORPORATION	
748727	1990/07/31	ASSIGNMENT GENERAL		*** COMPLETELY DELETED ***		
854221	1996/07/31	TRANSFER		*** COMPLETELY DELETED ***		
854222	1996/07/31	CHARGE		*** COMPLETELY DELETED ***	CRUICKSHANKS, WAYNE	

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

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
854223	1996/07/31	ASSIGNMENT GENERAL		*** COMPLETELY DELETED ***	BUSINESS DEVELOPMENT BANK OF CANADA	
	REMARKS: RENTS,	854222				
H665068	1997/02/21	DISCH OF CHARGE		*** COMPLETELY DELETED *** CIBC MORTGAGE CORPORATION		
	REMARKS: RE: 748726					
H768835	1998/12/11	CHARGE		*** COMPLETELY DELETED *** CRUICKSHANKS, WAYNE	CANADA TRUSTCO MORTGAGE COMPANY	
H768836	1998/12/11	NOTICE		*** COMPLETELY DELETED *** CRUICKSHANKS, WAYNE	CANADA TRUSTCO MORTGAGE COMPANY	
	REMARKS: H768835 - RENTS					
H771873	1999/01/08	DISCH OF CHARGE		*** COMPLETELY DELETED *** BUSINESS DEVELOPMENT BANK OF CANADA		
	REMARKS: RE: 854222					
HR261773	2004/02/05	DISCH OF CHARGE		*** COMPLETELY DELETED *** CANADA TRUSTCO MORTGAGE COMPANY		
	REMARKS: RE: H768835					
HR377135	2005/05/17	CHARGE		*** COMPLETELY DELETED *** CRUICKSHANKS, WAYNE	ROYAL BANK OF CANADA	
HR672797	2008/06/19	DISCH OF CHARGE		*** COMPLETELY DELETED *** ROYAL BANK OF CANADA		
	REMARKS: RE: HR377135					
HR1220453	2014/10/15	TRANSFER		*** COMPLETELY DELETED *** CRUICKSHANKS, WAYNE	LISA PHILP & ASSOCIATES LTD.	
	REMARKS: PLANNING ACT STATEMENTS.					
HR1220454	2014/10/15	CHARGE		*** COMPLETELY DELETED *** LISA PHILP & ASSOCIATES LTD.	ROYAL BANK OF CANADA	
HR1409772	2016/11/15	CHARGE		*** COMPLETELY DELETED *** LISA PHILP & ASSOCIATES LTD.	BARRIS, SHELDON	
HR1409773	2016/11/15	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** LISA PHILP & ASSOCIATES LTD.	BARRIS, SHELDON	
	REMARKS: TO BE DELETED UPON THE DELETION OF HR1409772					

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NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
HR1497860	2017/10/18	CHARGE		*** COMPLETELY DELETED *** LISA PHILP & ASSOCIATES LTD.	ROYAL BANK OF CANADA	
HR1497879	2017/10/18	NO ASSGN RENT GEN		LISA PHILP & ASSOCIATES LTD.	ROYAL BANK OF CANADA	C
HR1498139	2017/10/19	DISCH OF CHARGE		*** COMPLETELY DELETED *** BARRIS, SHELDON		
		REMARKS: HR1409772.				
HR1499861	2017/10/26	DISCH OF CHARGE		*** COMPLETELY DELETED *** ROYAL BANK OF CANADA		
		REMARKS: HR1220454.				
HR1943676	2023/01/13	TRANSFER	\$2,203,000	LISA PHILP & ASSOCIATES LTD.	1391 ONTARIO ST. INC.	C
		REMARKS: PLANNING ACT STATEMENTS.				
HR1943677	2023/01/13	CHARGE	\$2,446,000	1391 ONTARIO ST. INC.	BUSINESS DEVELOPMENT BANK OF CANADA	C
HR2003441	2023/11/30	DISCH OF CHARGE		*** COMPLETELY DELETED *** ROYAL BANK OF CANADA		
		REMARKS: HR1497860.				
HR2058879	2024/09/24	CONSTRUCTION LIEN	\$77,574	1000660443 ONTARIO INC.		C
HR2068548	2024/11/15	APL COURT ORDER		SUPERIOR COURT OF JUSTICE	TDB RESTRUCTURING LIMITED	C
		REMARKS: APPOINTING RECEIVER				
HR2084512	2025/02/07	CERTIFICATE		1000660443 ONTARIO INC.		C
		REMARKS: HR2058879				
HR2109941	2025/06/11	APL COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	MSI SPERGEL INC.	

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.

# APPENDIX 12





June 10, 2025

**VIA EMAIL: [PGennis@spergel.ca](mailto:PGennis@spergel.ca)**

msi Spergel Inc.  
200 Yorkland Boulevard – Suite 1100  
Toronto, ON M2J 5C1

Attention: Mr. Philip Gennis

Dear Sir:

Re: Receivership of 1391 Ontario St. Inc. (the “Debtor”)  
Our MAT91787

Pursuant to your instructions dated June 6, 2025, we have reviewed and vetted the security held by the Business Development Bank of Canada (“BDC”) against the Debtor. Please find our opinion set forth below.

### **EXECUTIVE SUMMARY**

In our opinion, the security held by BDC is good and valid security, properly registered pursuant to the *Ontario Land Titles system* and the *Ontario Personal Property Security Act* regime and is enforceable in accordance with its terms.

The BDC security provided to us did not include any resolutions. On the basis that there are no resolutions to the contrary, we have assumed that the individuals executing the General Security Agreement and Mortgage discussed below had the stated authority to do so at the time of execution and as such have the ability to bind the corporation.

### **THE BDC SECURITY AGREEMENT (“GSA”)**

We have reviewed the GSA dated January 11, 2023 in which the Debtor granted a security interest in its assets and undertakings in favour of BDC. The GSA was executed by Dylan Suitor in his capacity as an authorized signing officer. Mr. Suitor is listed as an officer or director of the Debtor on its’ corporate profile. In our opinion, the GSA was properly executed and registered pursuant to the

provisions of the *PPSA* and is good and valid security enforceable in accordance with its terms.

### **SEARCH OF THE PERSONAL PROPERTY SECURITY REGISTER**

We did conduct a search of the personal property security register. Our search disclosed the following PPSA file:

<b>Date of Registration</b>	<b>File No.</b>	<b>Secured Creditor</b>	<b>Collateral</b>
January 6, 2023	789793866	Business Development Bank of Canada	I, E, A, O & MV

### **MORTGAGE SECURITY HELD BY BDC**

The Debtor acquired the property on January 13, 2023 for the sum of \$2,220,000 from Lisa Philp & Associates Ltd. The property is municipally known as 1391 Ontario Street, Burlington, Ontario.

A Collateral Charge/Mortgage from the Debtor was granted to BDC and registered as Instrument No. HR1943677 on January 13, 2023 securing the sum of \$2,446,000. The mortgage was executed by Dylan Suitor in his capacity President of the Debtor as an authorized signing authority.

We have relied solely upon the copy of the mortgage documents provided to us by BDC and as well a title search of the property which indicates that the Debtor acquired the property on January 13, 2023.

In our opinion, the aforesaid Charge/Mortgage of Land was properly executed and registered, and is good and valid security, enforceable in accordance with its terms.

### **CONSTRUCTION LIEN**

The search of title indicates that 1000660443 Ontario Inc. did lien the property by registered Instrument No. HR2058879 on September 24, 2024 in respect of the outstanding sum of \$77,574.50. This was followed by the registration of a Certificate of Action against the property by Instrument No. HR2084512 on February 7, 2025.

## **INTERIM RECEIVER**

As we are aware, Fuller Landau was appointed as an IR by Justice Osborne on October 7, 2024. This property was captured within the Order consequent to Suitor's ownership of 1391 Ontario St. Inc. The general purpose of the Interim Receivership is to prevent any disbursement, withdrawal, transfer, sale, encumbrance of personal property or real property of Dylan Suitor or the listed related entities. 1391 Ontario St. Inc. is not listed on Schedule "C" of the Order; however, three of the Guarantors of the Debtor, (Dylan Suitor Personal Real Estate Corporation; Elev8 Inc. and Elevation Realty Network Inc.) are listed as related parties on that Schedule.

## **GUARANTEE**

The BDC holds Guarantees from: Dylan Suitor Personal Real Estate Corporation; Elev8 Inc.; Elevation Realty Network Inc. and Dylan Suitor, (a bankrupt). We have not investigated the signatures on the Guarantees given that the primary mandate is to sell the property; however, we can make such an investigation should you require it.

## **ASSUMPTIONS, QUALIFICATIONS AND LIMITATIONS**

The opinions expressed in this vetting letter are subject to the following general assumptions, qualifications and limitations:

1. Any photocopies of documents provided were true copies of the signed original document;
2. The documents were signed by the persons whose signatures appear on the documents and were delivered on the date that they bear or as otherwise indicated on the documents;
3. All enabling corporate resolutions and other proceedings in respect of the granting of the security were taken and that any corporation that signed the documents was properly named and validly in existence and capable of entering into the given agreements and granting security at the time that the corporate resolutions and other proceedings were signed or granted;
4. There are no other agreements or extraneous facts not disclosed in the documents that would or might affect the validity and enforceability of the security granted in favour of Lightfoot;

5. Advances were duly made or other valuable consideration was provided;
6. Unless otherwise indicated in this vetting letter, the enforceability of the security relates only to assets and property located in the Province of Ontario; and
7. Any equitable or legal defence that is not apparent from a review of the documents themselves.

We trust the foregoing is satisfactory. Should you require any further assistance, please contact the undersigned.

Thank you for referring this matter to us.

Yours very truly,

**SimpsonWigle LAW LLP**

A handwritten signature in dark ink, appearing to be 'R. Fisher', enclosed within a circular scribble.

Rosemary A. Fisher

RAF/th

# TAB C

Court File No. CV-25-00090112-0000

ONTARIO  
SUPERIOR COURT OF JUSTICE  
~~COMMERCIAL LIST~~

THE HONOURABLE ) ~~WEEKDAY~~TUESDAY, THE ~~#~~27<sup>TH</sup>  
JUSTICE )  
) DAY OF ~~MONTH~~JANUARY, ~~20~~YR2026

B E T W E E N:

BUSINESS DEVELOPMENT BANK OF CANADA~~PLAINTIFF~~

~~Plaintiff~~Applicant

- and -

1391 ONTARIO ST. INC.~~DEFENDANT~~

~~Defendant~~Respondent

~~APPROVAL, AND VESTING~~ AND DISCHARGE ORDER

THIS MOTION, made by msi Spergel Inc.~~[RECEIVER'S NAME]~~ in its capacity as the Court-appointed receiver ("Spergel" or the "**Receiver**") of all the assets, undertakings, ~~property~~ and ~~assets~~ ~~properties~~ of 1391 Ontario St. Inc.~~[DEBTOR]~~ ("1391" or the "**Debtor**") for an order:

1. validating and abridging the time for service of the Notice of Motion and the Motion Record in the manner effected by the Receiver and an Order dispensing with service thereof on any party other than the parties served;
2. approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and Adakite Inc. ~~[NAME OF PURCHASER]~~ (the "**Purchaser**") dated ~~[DATE]~~December 2, 2025 and appended to the First Report of the Receiver dated ~~[DATE]~~January 9, 2026 (the "**First Report**"); and

3. vesting in the Purchaser ~~the Debtor~~<sup>1391</sup>'s right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"):
4. sealing the Confidential Appendices 1 through 6 to the First Report until the earlier of the completion of the Transaction or further Order of this Honourable Court;
5. approving the First Report of the Receiver and the conduct, activities and actions to date;
6. approving the Receiver's Interim Statement of Receipts and Disbursements as at November 30, 2025;
7. authorizing and directing the Receiver to make distributions to Business Development Bank of Canada and the City of Burlington as set out in the Notice of Motion and the First Report;
8. approving the professional fees of the Receiver for the period up to and including November 30, 2025, in the amount of \$38,408.97, inclusive of HST and disbursements, as well as authorizing the Receiver to make payment of such amounts from the sale proceeds;
9. approving the legal fees of SimpsonWigle LAW LLP ("SW"), lawyers for the Receiver, for the period up to and including January 7, 2026, in the amount of \$11,956.46, inclusive of HST and disbursements, as well as authorizing the Receiver to make payment of such amounts to SW from the sale proceeds;
10. approving the Fee Accrual, as defined and set out in the Notice of Motion and the First Report;
11. discharging msi Spergel Inc. as the Receiver of the assets, undertakings and properties of the Debtor;
12. releasing msi Spergel Inc. from any and all liability as set out in paragraph 167 of this Order; and,

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

was heard this day at 45 Main Street East, Hamilton~~330 University Avenue,~~  
~~Toronto~~, Ontario.

ON READING the First Report and on hearing the submissions of counsel for the Receiver, \_\_\_\_\_ [NAMES OF OTHER PARTIES APPEARING], no one appearing for any other person on the service list, although properly served as appears from the affidavit of service of Tanisha Lashley~~[NAME]~~ sworn [DATE] filed<sup>4</sup>:

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

1.2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved,<sup>2</sup> and the execution of the Sale Agreement by the Receiver<sup>3</sup> 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.

2.3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the

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<sup>1</sup> ~~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.~~

<sup>2</sup> ~~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.~~

<sup>3</sup> ~~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.~~



"Receiver's Certificate"), all of ~~the Debtor~~1391's right, title and interest in and to the Purchased Assets described in the Sale Agreement ~~[and listed on Schedule B hereto]~~<sup>4</sup> 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"<sup>5</sup>) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice ~~[NAME]~~Bordin dated ~~[DATE]~~June 3, 2025; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3.4. **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}]Halton (LRO No. 20) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* ~~and/or the Land Registration Reform Act~~<sup>6</sup>, 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

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<sup>4</sup>~~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.~~

<sup>5</sup>~~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.~~

<sup>6</sup>~~Select the language appropriate to the land registry system (Registry vs. Land Titles).~~

directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

**4.5. THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds<sup>7</sup> 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<sup>8</sup>, 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.

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

~~6.7. 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;

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<sup>7</sup>~~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".~~

<sup>8</sup>~~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.~~

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

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

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

9. THIS COURT ORDERS that the Confidential Appendices 1 through 6 to the First Report be and are hereby sealed until the earlier of the completion of the Transaction or further Order of this Honourable Court.

10. THIS COURT ORDERS that the conduct, activities and actions of the Receiver, as set out in the First Report, are hereby approved.

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

12. THIS COURT ORDERS that, after payment of the fees of the Receiver and the Receiver's counsel, the Receiver shall make the following distributions:

- (a) to Business Development Bank of Canada ("BDC"), or such other party as directed by BDC, in the amount of \$20,000.00, plus interest, upon closing of the Transaction with respect to the outstanding Receiver's Certificate;

(b) to the Corporation of the City of Burlington in the amount of \$74,444.49, plus any other amounts accrued at the closing of the Transaction, for the outstanding realty taxes; and,

(c) the balance of any and all funds in the Debtor's estate to BDC, or such other party as directed by BDC, upon closing of the Transaction with respect to their first mortgage.

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

14. **THIS COURT ORDERS** that the Fee Accrual as set out in the First Report is hereby approved pending completion of all matters and the Receiver's discharge.

15. **THIS COURT ORDERS** that upon payment of the amounts set out in paragraph 123 hereof and upon the Receiver filing a certificate certifying that it has completed the other activities described in the Report, the Receiver shall be discharged as Receiver of the assets, undertakings and properties of the Debtor, 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.

16. **THIS COURT ORDERS AND DECLARES** that 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, 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.

8.17. **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.

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**Schedule A – Form of Receiver's Certificate**

Court File No. CV-25-00090112-0000

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**COMMERCIAL LIST**

B E T W E E N:

**PLAINTIFF BUSINESS DEVELOPMENT BANK OF CANADA**

PlaintiffApplicant

- and -

**DEFENDANT 1391 ONTARIO ST. INC.**

DefendantRespondent

**RECEIVER'S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable [NAME OF JUDGE]Justice Bordin of the Ontario Superior Court of Justice (the "**Court**") dated [DATE OF ORDER]June 3, 2025, [NAME OF RECEIVER]msi Spergel Inc. was appointed as the receiver (the "**Receiver**") of the undertakings, property and assets of [DEBTOR]1391 Ontario St. Inc. (the "**Debtor**").

B. Pursuant to an Order of the Court dated [DATE]January 27, 2026, the Court approved the agreement of purchase and sale made as of [DATE OF AGREEMENT]December 2, 2025 (the "**Sale Agreement**") between the Receiver [Debtor] and Adakite Inc. In Trust for a corporation to be formed[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 sections [11 and 12](#) 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 sections [11 and 12](#) 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]msi Spergel Inc.,**  
**in its capacity as Receiver of the**  
**undertakings, properties and assets of**  
**[DEBTOR]1391 Ontario St. Inc.,** and not  
in its personal or corporate capacity and  
without personal or corporate liability

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

Name: Philip Gennis, JD, CIRP, LIT

Title: Licensed Insolvency Trustee

## Schedule B – Purchased Assets

Property known municipally as 1391 Ontario Street, Burlington, Ontario, and legally described as:

PT LTS 14, 15 & 16, PL 90, AS IN 854221, EXCEPT PT 2, 20R5222, T/W 589292; BURLINGTON,  
PIN 07082-0016 (LT)



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

1. HR1943677 being a Charge in favour of Business Development Bank of Canada in the amount of \$2,446,000, registered January 13, 2023.
2. HR2068548 being an Application to register a Court Order in favour of TDB Restructuring Limited registered November 15, 2024.
3. HR2109941 being an Application to register a Court Order in favour of msi Spergel Inc. registered on June 11~~6~~, 2025.

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

**(unaffected by the Vesting Order)**

- a. Any reservation or unregistered restrictions, rights of way, easements or covenants that run with the land;
- b. Any registered or unregistered agreements or easements with a municipality or a supplier of utility services including without limitation, electricity, water, sewage, gas, telephone or cable television or any other telecommunication service;
- c. Any laws, by-laws and regulations and all outstanding work orders, deficiencies notices and notices of violation affecting the land;
- d. Any minor easements for the supply of utility service to the land or adjacent lands;
- e. Any encroachments disclosed by any errors or omissions in existing surveys of the Real Property or neighbouring properties and any title defect, encroachment or breach of zoning or building by-law or any other applicable law, by-law or regulation which might be disclosed by a more up-to-date survey or the Real Property and survey matters generally;
- f. Any exceptions and qualifications set forth in the *Land Titles Act* (Ontario);
- g. Any reservation contained in the original grant from the Crown;
- h. Any Land Registrar's registered orders;
- i. If applicable, any deposited reference plans or condominium description plans;
- j. If applicable, any registered condominium declaration or condominium by-laws;
- k. The following registered instruments affecting the Real Property:
  - (i) Bylaw – registered on 1961/01/25 as Instrument 119980
  - (ii) Agreement – registered on 1966/11/25 as Instrument 214355
  - (iii) Agreement – registered on 1981/01/07 as Instrument 534022
  - (iv) Agreement – registered on 1981/01/07 as Instrument 534023

BUSINESS DEVELOPMENT BANK OF CANADA  
Applicant

-and-

1391 ONTARIO ST. INC.  
Respondent

Court File No. CV-25-00090112-0000

ONTARIO  
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT HAMILTON

APPROVAL, VESTING AND DISCHARGE ORDER

SimpsonWigle LAW LLP  
1006 Skyview Drive, Suite 103  
Burlington, Ontario  
L7P 0V1

Rosemary A. Fisher (LSO# 32238T)  
Email: fisherr@simpsonwigle.com  
Tel: (905) 639-1052

Lawyers for the Receiver, msi Spergel Inc.

# TAB D

PROPERTY DESCRIPTION: PT LTS 14, 15 & 16 , PL 90 , AS IN 854221, EXCEPT PT 2, 20R5222, T/W 589292 ; BURLINGTON

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE  
LT CONVERSION QUALIFIED

RECENTLY:

FIRST CONVERSION FROM BOOK

PIN CREATION DATE:

1996/12/16

OWNERS' NAMES

1391 ONTARIO ST. INC.

CAPACITY SHARE

ROWN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
<div><div>**EFFECTIVE 2000/07/29</div><div>THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1996/12/16 ON THIS PIN**</div><div>**WAS REPLACED WITH THE "PIN CREATION DATE" OF 1996/12/16**</div><div>** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 1996/12/13 **</div><div>**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:</div><div>** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *</div><div>** AND ESCHEATS OR FORFEITURE TO THE CROWN.</div><div>** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF</div><div>** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY</div><div>** CONVENTION.</div><div>** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.</div><div>**DATE OF CONVERSION TO LAND TITLES: 1996/12/16 **</div></div>						
119980	1961/01/25	BYLAW				C
214355	1966/11/25	AGREEMENT				C
534022	1981/01/07	AGREEMENT			THE CORPORATION OF THE CITY OF BURLINGTON	C
534023	1981/01/07	AGREEMENT			THE CORPORATION OF THE CITY OF BURLINGTON	C
748726	1990/07/31	CHARGE		*** COMPLETELY DELETED ***	CIBC MORTGAGE CORPORATION	
748727	1990/07/31	ASSIGNMENT GENERAL		*** COMPLETELY DELETED ***		
854221	1996/07/31	TRANSFER		*** COMPLETELY DELETED ***		
854222	1996/07/31	CHARGE		*** COMPLETELY DELETED ***	CRUICKSHANKS, WAYNE	

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

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
854223	1996/07/31	ASSIGNMENT GENERAL		*** COMPLETELY DELETED ***	BUSINESS DEVELOPMENT BANK OF CANADA	
	REMARKS: RENTS,	854222				
H665068	1997/02/21	DISCH OF CHARGE		*** COMPLETELY DELETED *** CIBC MORTGAGE CORPORATION		
	REMARKS: RE: 748726					
H768835	1998/12/11	CHARGE		*** COMPLETELY DELETED *** CRUICKSHANKS, WAYNE	CANADA TRUSTCO MORTGAGE COMPANY	
H768836	1998/12/11	NOTICE		*** COMPLETELY DELETED *** CRUICKSHANKS, WAYNE	CANADA TRUSTCO MORTGAGE COMPANY	
	REMARKS: H768835 - RENTS					
H771873	1999/01/08	DISCH OF CHARGE		*** COMPLETELY DELETED *** BUSINESS DEVELOPMENT BANK OF CANADA		
	REMARKS: RE: 854222					
HR261773	2004/02/05	DISCH OF CHARGE		*** COMPLETELY DELETED *** CANADA TRUSTCO MORTGAGE COMPANY		
	REMARKS: RE: H768835					
HR377135	2005/05/17	CHARGE		*** COMPLETELY DELETED *** CRUICKSHANKS, WAYNE	ROYAL BANK OF CANADA	
HR672797	2008/06/19	DISCH OF CHARGE		*** COMPLETELY DELETED *** ROYAL BANK OF CANADA		
	REMARKS: RE: HR377135					
HR1220453	2014/10/15	TRANSFER		*** COMPLETELY DELETED *** CRUICKSHANKS, WAYNE	LISA PHILP & ASSOCIATES LTD.	
	REMARKS: PLANNING ACT STATEMENTS.					
HR1220454	2014/10/15	CHARGE		*** COMPLETELY DELETED *** LISA PHILP & ASSOCIATES LTD.	ROYAL BANK OF CANADA	
HR1409772	2016/11/15	CHARGE		*** COMPLETELY DELETED *** LISA PHILP & ASSOCIATES LTD.	BARRIS, SHELDON	
HR1409773	2016/11/15	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** LISA PHILP & ASSOCIATES LTD.	BARRIS, SHELDON	
	REMARKS: TO BE DELETED UPON THE DELETION OF HR1409772					

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NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
HR1497860	2017/10/18	CHARGE		*** COMPLETELY DELETED *** LISA PHILP & ASSOCIATES LTD.	ROYAL BANK OF CANADA	
HR1497879	2017/10/18	NO ASSGN RENT GEN		LISA PHILP & ASSOCIATES LTD.	ROYAL BANK OF CANADA	C
HR1498139	2017/10/19	DISCH OF CHARGE		*** COMPLETELY DELETED *** BARRIS, SHELDON		
	REMARKS: HR1409772.					
HR1499861	2017/10/26	DISCH OF CHARGE		*** COMPLETELY DELETED *** ROYAL BANK OF CANADA		
	REMARKS: HR1220454.					
HR1943676	2023/01/13	TRANSFER	\$2,203,000	LISA PHILP & ASSOCIATES LTD.	1391 ONTARIO ST. INC.	C
	REMARKS: PLANNING ACT STATEMENTS.					
HR1943677	2023/01/13	CHARGE	\$2,446,000	1391 ONTARIO ST. INC.	BUSINESS DEVELOPMENT BANK OF CANADA	C
HR2003441	2023/11/30	DISCH OF CHARGE		*** COMPLETELY DELETED *** ROYAL BANK OF CANADA		
	REMARKS: HR1497860.					
HR2058879	2024/09/24	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** 1000660443 ONTARIO INC.		
HR2068548	2024/11/15	APL COURT ORDER		SUPERIOR COURT OF JUSTICE	TDB RESTRUCTURING LIMITED	C
	REMARKS: APPOINTING RECEIVER					
HR2084512	2025/02/07	CERTIFICATE		*** COMPLETELY DELETED *** 1000660443 ONTARIO INC.		
	REMARKS: HR2058879					
HR2109941	2025/06/11	APL COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	MSI SPERGEL INC.	C
HR2123056	2025/08/13	APL DEL CONST LIEN		*** COMPLETELY DELETED *** 1000660443 ONTARIO INC.		
	REMARKS: HR2058879.					

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BUSINESS DEVELOPMENT BANK OF CANADA  
Applicant

-and- 1391 ONTARIO ST. INC.  
Respondent

Court File No. CV-25-00090112-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT HAMILTON

**MOTION RECORD**

**SimpsonWigle LAW LLP**  
1006 Skyview Drive, Suite 103  
Burlington, ON L7P 0V1

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