

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

**1951584 ONTARIO INC. (formerly DESANTE FINANCIAL SERVICES INC.) and  
CWB MAXIUM FINANCIAL INC.**

Applicants

- and -

**4231 SHEPPARD AVENUE EAST INC., ABU SEIFEIN BRIMLEY PHARMA INC., BLESS  
HUI PHARMA INC., JG WINDSOR INC., JM WESTVIEW PHARMA INC., JUBILEE  
PROPERTY INVESTMENTS INC., MAPLE MEDI PHARMA INC., RIVER HILL  
PHARMACY LTD., SJ EAST PHARMA INC., ST. MARY COOKSVILLE PHARMA INC.,  
ST. MARY THEOTOKOS PHARMA INC., STONEY CREEK PHARMA INC., TORONTO  
APOTHECARY PHARMA INC., WESTWAY HOLDINGS INC. and OLDE  
WALKERVILLE HOLDINGS INC.**

Respondents

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**MOTION RECORD  
(approval and vesting orders, approval of receiver's fees and activities)  
(returnable August 12, 2021)**

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August 4, 2021

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Lawyers for msi Spergel Inc. in its capacity as  
court-appointed receiver of the Respondents

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Respondents

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**TAB 1**

Notice of Motion returnable August 12, 2021

Court File No. CV-20-00650853-00CL

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

**1951584 ONTARIO INC. (formerly DESANTE FINANCIAL SERVICES INC.) and  
CWB MAXIUM FINANCIAL INC.**

Applicants

- and -

**4231 SHEPPARD AVENUE EAST INC., ABU SEIFEIN BRIMLEY PHARMA INC.,  
BLESS HUI PHARMA INC., JG WINDSOR INC., JM WESTVIEW PHARMA INC.,  
JUBILEE PROPERTY INVESTMENTS INC., MAPLE MEDI PHARMA INC., RIVER  
HILL PHARMACY LTD., SJ EAST PHARMA INC., ST. MARY COOKSVILLE  
PHARMA INC., ST. MARY THEOTOKOS PHARMA INC., STONEY CREEK  
PHARMA INC., TORONTO APOTHECARY PHARMA INC., WESTWAY  
HOLDINGS INC. and OLDE WALKERVILLE HOLDINGS INC.**

Respondents

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**NOTICE OF MOTION  
(approval and vesting orders, approval of receiver's fees and activities, sealing)  
(returnable August 12, 2021)**

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msi Spergel Inc. in its capacity as the Court-appointed receiver of the undertaking, property and assets of the Respondents (the “**Receiver**”) will make a motion to a judge of the Ontario Superior Court of Justice (Commercial List) on August 12, 2021, at 12:01 pm (noon) or as soon thereafter as the motion can be heard, by videoconference the details for which are in Schedule “A” hereto.

**THE PROPOSED METHOD OF HEARING:** orally.

**THE MOTION IS FOR:**

- a. approval and vesting orders in respect of the following sale transactions wherein the Receiver acts as vendor:
  - i. to 2842319 Ontario Inc. as assigned purchaser, dated June 2, 2021, for assets of the Respondent Maple Medi Pharma Inc. (the “**Maple Medi Transaction**”).
  - ii. to GSV Drugs Inc., dated June 7, 2021, for assets of the Respondent Toronto Apothecary Pharma Inc. (the “**Toronto Apothecary Transaction**”).
  - iii. to Guide Pharma Inc., dated June 14, 2021, for assets of the Respondent Bless Hui Pharma Inc. (the “**Bless Hui Transaction**”).
  - iv. to Emily Crossing Inc. as assigned purchaser, dated June 14, 2021, for assets of the Respondent River Hill Pharmacy Ltd. (the “**River Hill Transaction**”).
  - v. to Best Companions Pharm Inc. as assigned purchaser, dated June 14, 2021, for assets of the Respondent Stoney Creek Pharma Inc. (the “**Stoney Creek Transaction**”).  
  
(together, the above transactions are referred to as the “**Pharmacy Transactions**”)
  - vi. to 2759232 Ontario Corporation, dated July 11, 2021, for assets of the Respondent 4231 Sheppard Avenue East Inc. (the “**4231 Sheppard Transaction**”).

the whole in suggested accordance with the draft approval and vesting orders respectively included at tabs 3 to 8 of the Receiver’s motion record.

- b. an order in suggested accordance with the draft filed at tab 10 of the motion record:
  - i. if necessary, validating service of the notice of motion and motion record for this motion and the Receiver's second report dated August 4, 2021 (the "**Second Report**") and dispensing with further service thereof.
  - ii. approving the first report of the Receiver dated February 1, 2021 (the "**First Report**") and the Second Report, including the activities described therein and the statements of receipts and disbursements for each of the Respondent estates appended to the Second Report.
  - iii. approving the Receiver's fees, costs and expenses as set out in the fee affidavit appended to the Second Report.
  - iv. Sealing the confidential appendices to the Second Report pending the filing of the applicable Receiver's Certificate (as defined in the relevant approval and vesting order) or further court order. The documents of which sealing is sought are:
    - 1. in respect of the 4231 Sheppard Transaction: appraisal reports, unredacted copies of the sales and marketing proposals, Avison Young's final progress report, a comparative summary of offers received, and an unredacted copy of the sale agreement, and
    - 2. in respect of the Pharmacy Transactions: a summary of non-disclosure agreements and offers received and unredacted copies of the sale agreements.(collectively, the "**Confidential Appendices**")
- c. such further and other relief as counsel may request and the court deem just.



**THE GROUNDS FOR THE MOTION ARE:**

**I. APPROVAL AND VESTING ORDERS**

1. The Receiver was appointed as the Receiver of all the assets, undertakings and properties of the Respondents by orders dated November 25, 2020, January 26, 2021, February 3, 2021, and April 8, 2021 – each adding Respondents in this administratively consolidated court file.
2. The appointment orders are substantially per the Commercial List model order, and authorize and empower the Receiver to market and sell the Respondents' assets.
3. As to the 4231 Sheppard Transaction and as more amply appears from the Second Report:
  - a. it is in respect of the sole asset of the Respondent 4231 Sheppard Avenue East Inc., a commercial condominium unit located at 4231 Sheppard Avenue East.
  - b. the Receiver obtained two independent appraisals and two sale and marketing proposals from real estate brokers.
  - c. Avison Young was retained to conduct a sale process which the Receiver has found extensive, commercially reasonable and satisfactory.
  - d. the Receiver identified the 4231 Sheppard Transaction as the best transaction located and locatable.
  - e. the Receiver considers that the terms of the 4231 Sheppard Transaction are fair and reasonable in the circumstances and meet the criteria for approval and vesting orders.

4. As to the Pharmacy Transactions and as more fully appears from the Second Report:
  - a. they are in respect of substantially all the assets of the applicable Respondent.
  - b. the Receiver obtained sale and marketing proposals from two real estate brokers specialized in the pharmacy industry.
  - c. Maged Bebawy, a broker with ReMax West Realty Inc., was retained to conduct a sale process which the Receiver has found extensive, commercially reasonable and satisfactory.
  - d. online data rooms were set up and accessible to interested parties subject to confidentiality agreements.
  - e. depending on the applicable Pharmacy Transaction, between 28 and 43 confidentiality agreements were executed and the Receiver received between 3 and 10 written purchase offers.
  - f. the Receiver identified each of the Pharmacy Transactions as the best transaction located and locatable for the applicable assets.
  - g. all the Pharmacy Transactions are conditional on this court's granting the approval and vesting order sought.
  - h. the Toronto Apothecary, Bless Hui, River Hill and Stoney Creek Transactions are also subject to successful lease assignments, and the Bless Hui, River Hill, and Stoney Creek Transactions are further subject to the Ontario College of Pharmacists' accreditation. The approval and vesting orders sought provide that no vesting occurs unless and until the Receiver files a "Receiver's Certificate" confirming that all the closing conditions have been fulfilled or waived.

- i. the Receiver considers that the terms of each of the Pharmacy Transaction are fair and reasonable in the circumstances and meet the criteria for approval and vesting orders.

## **II. APPROVAL OF RECEIVER'S FEES AND ACTIVITIES**

5. The Receiver's activities since the beginning of the herein receiverships, including the stabilization of the Respondents' affairs since about November 2020 and the sale processes discussed above, have been reported to stakeholders and any interested party in the First and Second Reports. Those activities are appropriate, commercially reasonable, and in the best interest of the Respondents' estates.
6. As to the approval of the Receiver's fees, a detailed fee affidavit is provided as required by the caselaw, supported by true copies of detailed bills and confirming that the fees are comparable to those charged by other licensed insolvency trustee firms in Toronto for similar services. The fees are transparently disclosed, proportional and commercially reasonable.
7. This court may therefore grant the approval orders sought, which would have the constructive effects noted in the caselaw.

## **III. SEALING**

8. The Confidential Appendices contain information that would be highly prejudicial to the integrity of any future sale efforts necessary should any of the 4231 Transaction or the Pharmacy Transactions fail to close for any reason. Copies of the sale agreements are provided as part of the public motion record with minimal redactions such as to price and

deposit amount. The sealing orders sought are within this court's jurisdiction to make and are appropriate in the circumstances.

9. Sections 100, 101 and 137(2) of the *Courts of Justice Act* (Ontario), section 243 of the *Bankruptcy and Insolvency Act* (Canada), and the court's inherent and equitable jurisdiction, as necessary.

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

- a. the Second Report and appendices, and
- b. such further and other evidence as counsel may advise and this Honourable Court may permit.

**DATE:** August 4, 2021

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Lawyers for msi Spergel Inc. in its capacity as court-appointed receiver of the Respondents

**TO: THE SERVICE LIST**

**Schedule “A”**

**Videoconference hearing join-in details**

Join Zoom Meeting

<https://us06web.zoom.us/j/86878166860?pwd=cTVVY2praFIZK2YyUXA1RWIVTW81QT09>

Meeting ID: 868 7816 6860

Passcode: 673979

One tap mobile

+15873281099,,86878166860#,,,,\*673979# Canada

+16473744685,,86878166860#,,,,\*673979# Canada

Dial by your location

+1 587 328 1099 Canada

+1 647 374 4685 Canada

+1 647 558 0588 Canada

+1 778 907 2071 Canada

+1 204 272 7920 Canada

+1 438 809 7799 Canada

Meeting ID: 868 7816 6860

Passcode: 673979

Find your local number: <https://us06web.zoom.us/u/kbehv1wF6y>

1951584 ONTARIO INC. (formerly DESANTE FINANCIAL SERVICES INC.) and CWB MAXIUM FINANCIAL INC., Applicants, and 4231 SHEPPARD AVENUE EAST INC., ABU SEIFEIN BRIMLEY PHARMA INC., BLESS HUI PHARMA INC., JG WINDSOR INC., JM WESTVIEW PHARMA INC., JUBILEE PROPERTY INVESTMENTS INC., MAPLE MEDI PHARMA INC., RIVER HILL PHARMACY LTD., SJ EAST PHARMA INC., ST. MARY COOKSVILLE PHARMA INC., ST. MARY THEOTOKOS PHARMA INC., STONEY CREEK PHARMA INC., TORONTO APOTHECARY PHARMA INC., WESTWAY HOLDINGS INC. and OLDE WALKERVILLE HOLDINGS INC., Respondents

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*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST  
Proceeding commenced in TORONTO

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NOTICE OF MOTION  
(returnable August 12, 2021)

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Lawyers for msi Spergel Inc. in its capacity as court-appointed receiver of the Respondents

**TAB 2**

Second report of the receiver dated August 4, 2021

Court File No. CV-20-00650853-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**1951584 ONTARIO INC. (formerly DESANTE FINANCIAL SERVICES INC.) and  
CWB MAXIUM FINANCIAL INC.**

Applicants

- and -

**BLESS HUI PHARMA INC., JM WESTVIEW PHARMA INC., MAPLE MEDI PHARMA  
INC., RIVER HILL PHARMACY LTD., SJ EAST PHARMA INC., ST. MARY  
THEOTOKOS PHARMA INC., STONEY CREEK PHARMA INC., TORONTO  
APOTHECARY PHARMA INC., WESTWAY HOLDINGS INC.,  
OLDE WALKERVILLE HOLDINGS INC., ST. MARY COOKSVILLE PHARMA INC.,  
4231 SHEPPARD AVENUE EAST INC., JUBILEE PROPERTY INVESTORS INC.,  
AND JG WINDSOR INC.**

Respondents

**SECOND REPORT OF MSI SPERGEL INC.  
IN ITS CAPACITY AS THE RECEIVER OF  
JM WESTVIEW PHARMA INC., SJ EAST PHARMA INC., BLESS HUI PHARMA INC.,  
MAPLE MEDI PHARMA INC., RIVER HILL PHARMACY LTD., ST. MARY  
THEOTOKOS PHARMA INC., STONEY CREEK PHARMA INC., TORONTO  
APOTHECARY PHARMA INC., WESTWAY HOLDINGS INC., OLDE WALKERVILLE  
HOLDINGS INC. ST. MARY COOKSVILLE PHARMA INC., 4231 SHEPPARD  
AVENUE EAST INC., JUBILEE PROPERTY INVESTORS INC.,  
JG WINDSOR INC., AND ABU SEIFEIN BRIMLEY PHARMA INC.**

August 4, 2021



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## APPENDICES

1. Order of Mr. Justice Cavanagh dated November 25, 2020
2. Order of Mr. Justice Cavanagh dated January 26, 2021
3. Order of Mr. Justice Cavanagh dated February 3, 2021
4. Order of Mr. Justice Cavanagh dated April 8, 2021
5. Proposed Receiver's Report dated January 25, 2021 (without appendices)
6. First Report of the Receiver dated February 1, 2021 (without appendices)
7. Redacted Sales and Marketing Proposals of Colliers and Avison Young  
With respect to 4231 Sheppard Avenue East, Unit C1, Toronto, ON
8. Listing Agreement for 4231 Sheppard Avenue East, Unit C1, Toronto, ON
9. Redacted copy of the 275 Offer/Agreement of Purchase and Sale
10. Pharmacy Listing Agreements dated March 24, 2021
11. Copy of email blast sent by Listing Broker to prospective purchasers
12. Redacted copy of the Noorwala Offer
13. Redacted copy of the GSV Offer
14. Redacted copy of the Basilious Bless Hui Offer
15. Redacted copy of the Basilious River Hill Offer
16. Redacted copy of the Bolos Offer
17. Revised Olde Walkerville Pharmacy Listing Agreement (Wyandotte location)
18. Revised Olde Walkerville Pharmacy Listing Agreement (Sulla Villa location)
19. Brimley Listing Agreement
20. Fee Affidavit of Mukul Manchanda sworn August 4, 2021
21. Receiver's Interim Statements of Receipts and Disbursements as at June 30, 2021 for each of the Debtors

**CONFIDENTIAL APPENDICES**

1. Appraisal Reports for 4231 Sheppard Avenue East, Unit C1, Toronto, ON
2. Unredacted copies of the sales and marketing proposal of Colliers and Avison Young
3. Final Progress Report issued by Avison Young dated July 14, 2021
4. Comparative Summary of Offers Received for 4231 Sheppard Avenue E.
5. Unredacted copy of 2759232 Ontario Corporation offer to purchase 4231 Sheppard Avenue E.
6. Summary of NDAs and Offers Received with respect to Pharmacies
7. Unredacted copy of Noorwala Offer with respect to Maple Medi Pharmacy
8. Unredacted copy of GSV Drugs Inc. Offer with respect to Toronto Apothecary Pharmacy
9. Unredacted copy of Basilious Offer with respect to Bless Hui Pharmacy
10. Unredacted copy of Basilious Offer with respect to River Hill Pharmacy
11. Unredacted copy of Bolos Offer with respect to Stoney Creek Pharmacy

I. APPOINTMENT AND BACKGROUND

1. This second report ("**Second Report**") is filed by msi Spergel inc. ("**Spergel**") in its capacity as the Court-appointed receiver (in such capacity, the "**Receiver**") of the following companies (collectively the "**Debtors**"):
  - i. JM Westview Pharma Inc. ("**Westview**");
  - ii. SJ East Pharma Inc. ("**SJ East**");
  - iii. Bless Hui Pharma Inc. ("**Bless Hui**")
  - iv. Maple Medi Pharma Inc. ("**Maple Medi**");
  - v. River Hill Pharmacy Ltd. ("**River Hill**");
  - vi. St. Mary Theotokos Pharma Inc. ("**Theotokos**");
  - vii. Stoney Creek Pharma Inc. ("**Stoney Creek**");
  - viii. Toronto Apothecary Pharma Inc. ("**Toronto Apothecary**");
  - ix. Westway Holdings Inc. ("**Westway Holdings**");
  - x. Olde Walkerville Holdings Inc. ("**Olde Walkerville**");
  - xi. St. Mary Cooksville Pharma Inc., ("**Cooksville**")
  - xii. 4231 Sheppard Avenue East Inc., ("**4231**")
  - xiii. Jubilee Property Investors Inc., ("**Jubilee**")
  - xiv. JG Windsor Inc. ("**JGWI**"); and
  - xv. Abu Seifein Brimley Pharma Inc. ("**Brimley**").
2. JM Westview was a Canadian owned private corporation formerly carrying on the business of a retail pharmacy in Tilbury, Ontario.
3. SJ East was a Canadian owned private corporation formerly carrying on the business of a retail pharmacy in Brighton Ontario.
4. Bless Hui is a Canadian owned private corporation carrying on the business of a retail pharmacy (the "**Bless Hui Pharmacy**") at 280 Spadina Avenue Toronto, Ontario (the "**Bless Hui Premises**").

5. Maple Medi is a Canadian owned private corporation carrying on the business of a retail pharmacy (the "**Maple Medi Pharmacy**") at 2535 Major MacKenzie Drive, Vaughan, Ontario.
6. River Hill is a Canadian owned private corporation carrying on the business of a retail pharmacy (the "**River Hill Pharmacy**") at 2086 Lawrence Avenue West, Toronto, Ontario (the "**River Hill Premises**").
7. Theotokos is a Canadian owned private corporation formerly carrying on the business of a retail pharmacy in Toronto, Ontario.
8. Stoney Creek is a Canadian owned private corporation carrying on the business of a retail pharmacy (the "**Stoney Creek Pharmacy**") at 800 Queenston Road, Stoney Creek, Ontario (the "**Stoney Creek Premises**").
9. Toronto Apothecary is a Canadian owned private corporation carrying on the business of a retail pharmacy (the "**Apothecary Pharmacy**") at 842 Markham Road, Toronto, Ontario (the "**Apothecary Premises**").
10. Westway Holdings is a Canadian owned private corporation formerly carrying on the business of a retail pharmacy in Toronto, Ontario.
11. Olde Walkerville is a Canadian owned private corporation carrying on the business of two retail pharmacies in Windsor, Ontario.
12. Cooksville was a Canadian owned private corporation formerly carrying on the business of a retail pharmacy in Mississauga, Ontario.
13. 4231 is a Canadian owned private corporation. 4231 owns real property municipally known as 4231 Sheppard Avenue East, Unit C1, Toronto, Ontario (the "**4231 Real Property**").
14. Jubilee is a Canadian owned private corporation carrying on the business of a real estate holding company in Richmond Hill, Ontario.
15. JGWI is a Canadian owned private corporation carrying on the business of a real estate holding company in Windsor, Ontario.

16. Brimley is a Canadian owned private corporation carrying on the business of a retail pharmacy in Toronto, Ontario.
17. Spergel was appointed as the Receiver of all of the assets, undertakings and properties of the Debtors (collectively, the "**Property**") by the Orders of the Honourable Mr. Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the "**Court**"), in the case of Bless Hui, Maple Medi, River Hill, Theotokos, Stoney Creek, Toronto Apothecary, Westway Holdings and Olde Walkerville made November 25, 2020, in the case of JM Westview and SJ East made January 26, 2021, in the case of Cooksville, 4231, JGWI and Jubilee, made February 3, 2021 and in the case of Brimley, made April 8, 2021 (collectively, the "**Receivership Orders**"). Copies of the Receivership Orders are attached to this Second Report as **Appendices "1", "2", "3" and "4"**, respectively. The Receivership Orders were granted by the Court on consent of the Debtors who were represented by Counsel.
18. The Receiver filed a report in its capacity as the Proposed Receiver on January 25, 2021 (the "**Proposed Receiver's Report**") reporting its findings with respect to Westview and SJ East. A copy of the Proposed Receiver's Report (without appendices) is attached to this Second Report as **Appendix "5"**.
19. The Receiver filed its First Report dated February 1, 2021 (the "**First Report**") reporting its further findings with respect to Westview and SJ East. A copy of the First Report (without appendices) is attached to this Second Report as **Appendix "6"**.
20. The Receiver retained Goldman Sloan Nash & Haber LLP (the "**Receiver's Counsel**") as its independent legal counsel.

## **II. PURPOSE OF THIS SECOND REPORT AND DISCLAIMER**

21. The purpose of this Second Report is to report to the Court regarding the Receiver's activities and conduct since the Receiver's First Report dated February 1, 2021, and to seek Orders from this Court:
  - i. approving the First Report and approving the actions of the Receiver described therein;

- ii. approving this Second Report and activities described herein, including, without limitation, the Receiver's interim statements of receipts and disbursements as at June 30, 2021 for the receivership of each of the Debtors (the "**Interim R&Ds**");
- iii. approving the 4231 Real Property sale transaction contemplated by the agreement of purchase and sale dated July 11, 2021 between the Receiver as vendor and 2759232 Ontario Corporation ("**275 Ontario**") as purchaser, (the "**4231 Sale Agreement**") with respect to the Purchased Assets (as defined in the 4231 Sale Agreement) (the "**4231 Purchased Assets**"), and authorizing the Receiver to complete the transaction contemplated thereby (the "**4231 Transaction**");
- iv. vesting in 275 Ontario, 4231's right, title and interest in and to the 4231 Purchased Assets free and clear of any claims and encumbrances save and except for "Permitted Encumbrances";
- v. approving the Maple Medi sale transaction contemplated by the agreement of purchase and sale dated June 2, 2021 between the Receiver as vendor and Muhammed Haroon Noorwala in Trust for a corporation to be formed as assigned to 2842319 Ontario Inc. (the "**Maple Medi Purchaser**") as purchaser, (the "**Maple Medi Sale Agreement**") with respect to the Purchased Assets (as defined in the Maple Medi Sale Agreement) (the "**Maple Medi Purchased Assets**"), and authorizing the Receiver to complete the transaction contemplated thereby (the "**Maple Medi Transaction**");
- vi. vesting in the Maple Medi Purchaser, Maple Medi's right, title and interest in and to the Maple Medi Purchased Assets free and clear of any claims and encumbrances save and except for "Permitted Encumbrances";
- vii. approving the Toronto Apothecary sale transaction contemplated by the agreement of purchase and sale dated June 7, 2021 between the Receiver as vendor and GSV Drugs Inc. ("**GSV**") as purchaser, (the "**Toronto Apothecary Sale Agreement**") with respect to the Purchased Assets (as

- defined in the Toronto Apothecary Sale Agreement) (the "**Toronto Apothecary Purchased Assets**"), and authorizing the Receiver to complete the transaction contemplated thereby (the "**Toronto Apothecary Transaction**");
- viii. approving the Bless Hui sale transaction contemplated by the agreement of purchase and sale dated June 14, 2021 between the Receiver as vendor and Raouf Basilious in Trust for a corporation to be formed as assigned to Guide Pharma Inc. (the "**Bless Hui Purchaser**") as purchaser, (the "**Bless Hui Sale Agreement**") with respect to the Purchased Assets (as defined in the Bless Hui Sale Agreement) (the "**Bless Hui Purchased Assets**"), and authorizing the Receiver to complete the transaction contemplated thereby (the "**Bless Hui Transaction**");
- ix. approving the River Hill sale transaction contemplated by the agreement of purchase and sale dated June 14, 2021 between the Receiver as vendor and Raouf Basilious in Trust for a corporation to be formed as assigned to Emily Crossing Inc. (the "**River Hill Purchaser**") as purchaser, (the "**River Hill Sale Agreement**") with respect to the Purchased Assets (as defined in the River Hill Sale Agreement) (the "**River Hill Purchased Assets**"), and authorizing the Receiver to complete the transaction contemplated thereby (the "**River Hill Transaction**");
- x. approving the Stoney Creek sale transaction contemplated by the agreement of purchase and sale dated June 14, 2021 between the Receiver as vendor and Sameh Bolos in Trust for a corporation to be formed as assigned to Best Companions Pharm Inc. (the "**Stoney Creek Purchaser**") as purchaser, (the "**Stoney Creek Sale Agreement**") with respect to the Purchased Assets (as defined in the Stoney Creek Sale Agreement) (the "**Stoney Creek Purchased Assets**"), and authorizing the Receiver to complete the transaction contemplated thereby (the "**Stoney Creek Transaction**", together with the 4231 Transaction, the Maple Medi Transaction, the Toronto Apothecary Transaction, the Bless Hui



Transaction and the River Hill Transaction shall be referred to herein as the "**Transactions**");

- xii. sealing the Confidential Appendices (as defined herein) to this Second Report until the earlier of the completion of the Transactions or further Order of this Court;
  - xiii. approving the fees and disbursements of the Receiver as described in the Fee Affidavit of Mukul Manchanda sworn August 4, 2021;
  - xiiii. such further and other relief as Counsel may advise and this Court may permit
22. The Receiver will not assume responsibility or liability for losses incurred by the reader due to the circulation, publication, reproduction or use of this Second Report for any other purpose.
23. In preparing this Second Report, the Receiver has relied upon certain information provided to it by the Debtors and or its principals. 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 form of assurance with respect to such information.
24. Unless otherwise stated, all monetary amounts contained in this Second Report are expressed in Canadian dollars.

### **III. ACTIONS OF THE RECEIVER**

25. Immediately upon its appointment, the Receiver directly or through Counsel attended to the following:
- i. secured possession of the premises and attended to all necessary repairs where applicable;
  - ii. notified landlords and arranged for continuation of occupation in addition to negotiating lease extensions where necessary and new leases where such were not in place as at the date of appointment;

- iii. arranged for the registration of the Receiver's interest on the title to real property, where applicable;
  - iv. communicated with tenants in occupation of the real property and instructed said tenants to pay all arrears and future rent to the Receiver which continues to date;
  - v. arranged for insurance in the name of the Receiver;
  - vi. opened dedicated trust accounts for each of the receivership entities and dealt with existing accounts;
  - vii. notified the office of the Superintendent of Bankruptcy of its appointment as Receiver;
  - viii. prepared and filed all documents mandated by the *Bankruptcy and Insolvency Act.*; and
  - ix. communicated with the Canada Revenue Agency ("**CRA**") with respect to each of the Debtors.
26. With respect to the operating pharmacies, in addition to the above, the Receiver attended to the following:
- i. met with and re-hired the pharmacists and technicians, some of whom are independent contractors with others being employees;
  - ii. confirmed its appointment with the Ontario College of Pharmacists (the "**OCP**") and in accordance with the requirements of the Ontario College of Pharmacists (the "**OCP**"), the Receiver ensured that a Designated Manager and Narcotics Signer was formally engaged;
  - iii. prepared and filed necessary documentation with Service Canada with respect to the *Wage Earner Protection Plan Act* ("**WEPPA**");
  - iv. quantified PMSI security interests in favour of suppliers;
  - v. quantified rental arrears;
  - vi. secured a continuation of pharmaceutical supply; and

vii. took all necessary steps to ensure that the pharmacies remained fully operational under the supervision of the Receiver and that the transfer of care and control to the Receiver was seamless and without interruption to client service. The pharmacies continue to operate with most of the same personnel and remain open the same hours as previously.

27. With respect to the unsold real estate, the Receiver's efforts are ongoing to market and sell the real properties.

#### IV. THE TRANSACTIONS

28. Pursuant to the terms of the Receivership Orders, the Receiver was empowered and authorized to, among other things, market any or all of the Debtors' assets, including advertising and soliciting offers in respect of the assets and negotiating such terms and conditions of sale as the Receiver, in its discretion, deemed appropriate.

##### ***4231 Sheppard Avenue East Inc.***

29. The sole asset of 4231 is a commercial condominium unit located at 4231 Sheppard Avenue East, Unit C1, Toronto, Ontario.

30. Upon appointment, the Receiver engaged the services of Wagner, Andrews & Kovac Ltd. ("**Wagner**") and Cornwall Property Consultants Ltd. ("**Cornwall**") to attend at and conduct a full narrative appraisal of the 4231 Real Property. The Receiver obtained appraisals in relation to the 4231 Real Property from Wagner on February 16, 2021 and from Cornwall on February 18, 2021. Copies of the appraisal reports are attached to this Second Report as **Confidential Appendix "1"**.

31. The Receiver requested sales and marketing proposals from two GTA commercial real estate brokers, Colliers International ("**Colliers**") and Avison Young Commercial Real Estate Services LP ("**Avison Young**"). Copies of the sales and marketing proposals with valuations redacted are attached to this Second Report as **Appendix "7"**. Unredacted copies of the sales and marketing proposals are attached to this Second Report as **Confidential Appendix "2"**.

32. The Receiver entered into an MLS Listing Agreement with Avison Young dated March 24, 2021 at a list price of \$350,000 (the "**4231 Listing Agreement**"). A copy of the 4231 Listing Agreement is attached to this Second Report as **Appendix "8"**.
33. Avison Young widely marketed the subject real property to garner maximum interest and multiple offers to purchase. A copy of the Final Progress Report issued by Avison Young dated July 14, 2021 is attached to this Second Report as **Confidential Appendix "3"**.
34. Multiple offers were received by Avison Young with respect to the 4231 Real Property. Attached hereto as **Confidential Appendix "4"** is a comparative summary of Offers received.
35. Efforts were expended by the Receiver to negotiate certain of the offers, which negotiations resulted in the Receiver accepting the Offer submitted by 2759232 Ontario Corporation (the "**275 Offer**"). The acceptance of the 275 Offer is conditional only upon the approval of this Honourable Court and accordingly is the subject matter, inter alia, of the motion brought by the Receiver. A copy of the 275 Offer/Agreement of Purchase and Sale with redactions is attached to this Second Report as **Appendix "9"**. An unredacted copy is attached as **Confidential Appendix "5"**
36. The Receiver is of the view that the sale process was conducted in a commercially reasonable manner and that the market was extensively canvassed pursuant to Avison Young's marketing efforts detailed above and contained in the Avison Young's Listing Proposal. It is the opinion of the Receiver that the terms and conditions contained within the 4231 Sale Agreement are commercially reasonable in all respects and that the purchase price in the 4231 Sale Agreement is at market value for the 4231 Real Property and is the best outcome to the estate in the circumstances.

#### ***The Pharmacy Sales***

37. The Receiver is seeking approval of the sale of the following pharmacies:
  - i. Maple Medi Pharmacy;

- ii. Apothecary Pharmacy;
- iii. Bless Hui Pharmacy;
- iv. River Hill Pharmacy; and
- v. Stoney Creek Pharmacy (collectively, the "**Pharmacies**").

The sales and marketing process undertaken by the Receiver with respect to the Pharmacies is outlined in greater detail below.

38. Upon its appointment, the Receiver worked on stabilizing the operations of the Conditionally Sold Pharmacies. Once the operations were stabilized, the Receiver sought sales and marketing proposals from two real estate brokers specialized in the pharmacy industry, Maged Bebawy ("**Bebawy**"), a broker with ReMax West Realty Inc. and Albert Salib, ("**Salib**") a broker with Salib Real Estate Ltd.
39. The Receiver entered into MLS Listing Agreements with Bebawy with respect to:
- i. the Maple Medi Pharmacy dated March 24, 2021;
  - ii. the Apothecary Pharmacy dated March 24, 2021;
  - iii. the Bless Hui Pharmacy dated March 24, 2021;
  - iv. the River Hill Pharmacy dated March 24, 2021; and
  - v. the Stoney Creek Pharmacy dated March 24, 2021 (collectively, the "**Listing Agreements**").

Copies of the Listing Agreements are attached to this Second Report as **Appendix "10"**.

40. Online data rooms were set up by the Receiver containing the financial and other information related to the Pharmacies. Prior to being granted access to the data room(s), prospective purchasers were required to sign a Non-Disclosure Agreement ("**NDA**") in order to protect the integrity of the information made available in the data room(s).
41. Bebawy also widely marketed the Pharmacies to garner maximum interest. An email blast was sent by Bebawy to approximately 800 prospective purchasers. A fax broadcast was also sent to approximately 4965 pharmacies in Ontario with a

success rate of 4242. A copy of the email blast sent to prospective purchasers and marketing report is attached to this Second Report as **Appendix "11"**.

42. As a result of the above, the following interest was generated in the Conditionally Sold Pharmacies:
- i. 37 interested parties signed the NDA and obtained the information related to the Maple Medi Pharmacy. The Receiver received 6 written offers for the assets of the Maple Medi Pharmacy.
  - ii. 35 interested parties signed the NDA and obtained the information related to the Apothecary Pharmacy. The Receiver received 3 written offers for the assets of the Apothecary Pharmacy.
  - iii. 29 interested parties signed the NDA and obtained the information related to the Bless Hui Pharmacy. The Receiver received 3 written offers for the assets of the Bless Hui Pharmacy.
  - iv. 38 interested parties signed the NDA and obtained the information related to the River Hill Pharmacy. The Receiver received 8 written offers for the assets of the River Hill Pharmacy.
  - v. 43 interested parties signed the NDA and obtained the information related to the Stoney Creek Pharmacy. The Receiver received 11 written offers for the assets of the Stoney Creek Pharmacy.

Summaries of NDAs and Offers received with respect to the Pharmacies are attached to this Second Report as **Confidential Appendix "6"**.

43. Efforts were expended by the Receiver to negotiate certain of the offers, which negotiations resulted in the Receiver:
- i. accepting the Offer submitted by Muhammed Haroon Noorwala in Trust for a Corporation to be formed as assigned to 2842319 Ontario Inc. (the "**Noorwala Offer**") with respect to the Maple Medi Pharmacy. The acceptance of the Noorwala Offer is conditional only upon the approval of this Honourable Court and accordingly is the subject matter, inter alia, of the motion brought by the Receiver. A copy of the Noorwala

Offer/Agreement of Purchase and Sale with redactions for the purchase price and deposit is attached to this Second Report as **Appendix "12"**. An unredacted copy of the Noorwala Offer is attached as **Confidential Appendix "7"**.

- ii. accepting the Offer submitted by GSV Drugs Inc. with respect to the Apothecary Pharmacy (the "**GSV Offer**"). The acceptance of the GSV Offer is conditional upon successful assignment of the lease of the Apothecary Premises to GSV and the approval of this Honourable Court. Accordingly, the GSV Offer is the subject matter, inter alia, of the motion brought by the Receiver. A copy of the GSV Offer/Agreement of Purchase and Sale with redactions for the purchase price and deposit is attached to this Second Report as **Appendix "13"**. An unredacted copy of the Noorwala Offer is attached as **Confidential Appendix "8"**.
- iii. accepting the Offer submitted by Raouf Basilious ("**Basilious**") in Trust for a Corporation to be formed as assigned to Guide Pharma Inc. with respect to the Bless Hui Pharmacy (the "**Basilious Bless Hui Offer**"). The acceptance of the Basilious Bless Hui Offer is conditional upon successful assignment of the lease of the Bless Hui Premises to Basilious or a corporation to be formed by Basilious, obtaining OCP accreditation and the approval of this Honourable Court. Accordingly, the Basilious Bless Hui Offer is the subject matter, inter alia, of the motion brought by the Receiver. A copy of the Basilious Bless Hui Offer/Agreement of Purchase and Sale with redactions for purchase price and deposit is attached to this Second Report as **Appendix "14"**. An unredacted copy of the Noorwala Offer is attached as **Confidential Appendix "9"**.
- iv. accepting the Offer submitted by Raouf Basilious in Trust for a Corporation to be formed as assigned to Emily Crossing Inc. with respect to the River Hill Pharmacy (the "**Basilious River Hill Offer**"). The acceptance of the Basilious River Hill Offer is conditional upon successful assignment of the lease of the River Hill Premises to Basilious or a corporation to be formed

- by Basilious, obtaining OCP accreditation and the approval of this Honourable Court. Accordingly, the Basilious River Hill Offer is the subject matter, inter alia, of the motion brought by the Receiver. A copy of the Basilious River Hill Offer/Agreement of Purchase and Sale with redactions for purchase price and deposit is attached to this Second Report as **Appendix "15"**. An unredacted copy of the Noorwala Offer is attached as **Confidential Appendix "10"**.
- v. accepting the Offer submitted by Sameh Bolos ("**Bolos**") in Trust for a Corporation to be formed as assigned to Best Companions Pharma Inc. with respect to the Stoney Creek Pharmacy (the "**Bolos Offer**"). The Bolos Offer, together with the Noorwala Offer, the GSV Offer, the Basilious Bless Hui Offer and the Basilious River Hill Offer shall be referred to as the "**Offers**"). The acceptance of the Bolos Offer is conditional upon successful assignment of the lease of the Stoney Creek Premises to Best Companions, obtaining OCP accreditation and the approval of this Honourable Court. Accordingly, the Bolos Offer is the subject matter, inter alia, of the motion brought by the Receiver. A copy of the Bolos Offer/Agreement of Purchase and Sale with redactions as to purchase price and deposit is attached to this Second Report as **Appendix "16"**. An unredacted copy of the Noorwala Offer is attached as **Confidential Appendix "11"**. (collectively with Confidential Appendices "1", "2", "3", "4", "5", "6", "7", "8", "9" and "10", the "**Confidential Appendices**").
44. The Receiver is of the view that the sale process with respect to the Pharmacies was conducted in a commercially reasonable manner and that the market was extensively canvassed pursuant to Bebawy's marketing efforts detailed above and the negotiations undertaken by the Receiver with the leading bidders. It is the opinion of the Receiver that the terms and conditions contained within: a) the Maple Medi Sale Agreement; b) the Toronto Apothecary Sale Agreement; c) the Bless Hui Sale Agreement; d) the River Hill Sale Agreement; and e) the Stoney Creek Sale Agreement (collectively the "**Sale Agreements**") are commercially



reasonable in all respects and that the purchase price in the Sale Agreements are at market value and are the best outcome to the estates in the circumstances.

**V. REQUEST FOR A SEALING ORDER**

45. The Receiver is seeking a sealing order in respect of the Confidential Appendices to this Second Report as they each contain commercially sensitive information, the release of which prior to the completion of the Transactions would be prejudicial to the stakeholders of the Debtors' estates in the event the Transactions do not close.

**VI. OPERATING PHARMACIES NOT SUBJECT TO SALE AGREEMENTS**

***Olde Walkerville Holdings Inc.***

46. The sole assets of Olde Walkerville are two retail pharmacies operating out of leased premises located at 1701 Wyandotte Street East, Windsor, Ontario and 870 Erie Street East, Windsor, Ontario (collectively, the "**Windsor Pharmacies**").
47. The Windsor Pharmacies were previously listed for sale with Bebawy however, the marketing efforts did not garner any material offers.
48. The Windsor Pharmacies remain fully operational under the supervision of the Receiver and revised listing agreements have been signed with Bebawy (the "**Revised Olde Walkerville Listing Agreements**") by the Receiver. Copies of the Revised Olde Walkerville Listing Agreements are attached to this Second Report as **Appendices "17" and "18"**, respectively.

***Abu Seifein Brimley Pharma Inc.***

49. The sole asset of Brimley is a retail pharmacy operating out of leased premises at 127 Montezuma Trail, Toronto, Ontario
50. The pharmacy remains fully operational under the supervision of the Receiver and a Listing Agreement for the sale of the pharmacy has been signed with Bebawy by the Receiver (the "**Brimley Listing Agreement**"). A copy of the Brimley Listing Agreement is attached to this Second Report as **Appendix "19"**.

**VII. NON-OPERATING DEBOTRS**

***JM WESTVIEW PHARMA INC.***

51. As previously reported by the Receiver, the pharmacy operations of Westview operating as Mill Street Pharmacy in Tilbury, Ontario ceased in January 2021. The Receiver has filed an Assignment in Bankruptcy with respect to Westview and is currently investigating the movement of its assets. The Receiver will report to Court further in this regard as its investigation progresses.

***SJ EAST PHARMA INC.***

52. As previously reported by the Receiver, the pharmacy operations of SJ East operating as Brighton Pharmacy in Brighton, Ontario ceased in or around November, 2020. The Receiver has filed an Assignment in Bankruptcy with respect to SJ East and is currently investigating the movement of its assets. The Receiver will report to Court further in this regard as its investigation progresses.

***ST. MARY THEOTOKOS PHARMA INC.***

53. The pharmacy operations of Theotokos ceased prior to the appointment of the Receiver and the principals of the Debtors have advised that the operations were co-mingled with those of Bless Hui given its proximity.

***WESTWAY HOLDINGS INC.***

54. The pharmacy operations of Westway ceased prior to the appointment of the Receiver and it is believed that the operations were co-mingled with those of River Hill given its proximity.

***ST. MARY COOKSVILLE PHARMA INC.***

55. The pharmacy operations of Cooksville ceased in or around November, 2020. The Receiver has filed an Assignment in Bankruptcy with respect to Cooksville and is currently investigating the movement of its assets. The Receiver will report to Court further in this regard as its investigation progresses.

**VIII. DEBTORS WITH ONLY REAL ESTATE ASSETS**

***JUBILEE PROPERTY INVESTORS INC.***

56. The sole asset of Jubilee is a single commercial condominium unit located at 280 West Beaver Creek, Unit 11, Richmond Hill, Ontario. (the "**Jubilee Condominium**").
57. The Jubilee Condominium is subject to what the Receiver believes is a non-arms-length 40 year lease with a pharmacy (the "**Jubilee Pharmacy Lease**").
58. The Receiver is presently in negotiations with the tenant to purchase the unit and will report back to Court on further recommended steps for the disposition of the Jubilee Condominium.
59. The Receiver is presently preparing to file an Assignment in Bankruptcy with respect to Jubilee to preserve the rights of the Trustee to challenge the validity of the Jubilee Pharmacy Lease should negotiations with the Tenant fail to result in an agreement of purchase and sale.

***JG WINDSOR INC.***

60. The sole asset of JGWI is an approximately 3500 square foot medical building located at 2780 Totten Avenue in, Windsor, Ontario. (the "**Totten Building**") currently occupied by a single physician and a pharmacy (the "**Totten Tenants**").
61. The Totten Building is subject to what the Receiver believes is a non-arms-length 40 year lease in favour of a pharmacy owned by the same principal as the Jubilee Pharmacy described above (the "**Totten Pharmacy Lease**").
62. The Receiver is presently in negotiations with the pharmacy tenant to purchase the building and will report back to Court on further recommended steps for the disposition of the Totten Building.
63. The Receiver is presently preparing to file an Assignment in Bankruptcy with respect to JGWI to preserve the rights of the Trustee to challenge the validity of the Totten Pharmacy Lease should negotiations with the Tenant fail to result in an agreement of purchase and sale.

**IX. FEES AND DISBURSEMENTS OF THE RECEIVER**

64. Attached to this Second Report as **Appendix "20"** is the Affidavit of Mukul Manchanda, sworn August 4, 2021, ( the "**Manchanda Affidavit**") which incorporates, by reference a copy of the time dockets pertaining to the receiverships of each of the Debtors for the period to and including June 30, 2021.
65. The fees and disbursements of the Receiver for each of the Debtors are as follows:
- i. in respect of the receivership of Westview for the period to and including June 30, 2021 fees of \$15,632.66 (inclusive of HST, disbursements and a discount of \$932.70) were charged by Spergel as detailed in the Manchanda Affidavit. This represents a total of 32.00 hours at an effective rate of \$460.55 per hour;
  - ii. in respect of the receivership of SJ East for the period to and including June 30, 2021 fees of \$24,720.90 (inclusive of HST, disbursements and a discount of \$2,355.30) were charged by Spergel as detailed in the Manchanda Affidavit. This represents a total of 61.20 hours at an effective rate of \$395.22 per hour;
  - iii. in respect of the receivership of Bless Hui for the period to and including June 30, 2021 fees of \$118,213.97 (inclusive of HST, disbursements and a discount of \$14,160.60) were charged by Spergel as detailed in the Manchanda Affidavit. This represents a total of 374.50 hours at an effective rate of \$316.97 per hour;
  - iv. in respect of the receivership of Maple Medi for the period to and including June 30, 2021 fees of \$112,188.53 (inclusive of HST, disbursements and a discount of \$20,258.35) were charged by Spergel as detailed in the Manchanda Affidavit. This represents a total of 391.20 hours at an effective rate of \$305.39 per hour;
  - v. in respect of the receivership of River Hill for the period to and including June 30, 2021 fees of \$108,548.28 (inclusive of HST, disbursements and a discount of \$17,595.10) were charged by Spergel as detailed in the

- Manchanda Affidavit. This represents a total of 365.75 hours at an effective rate of \$310.44 per hour;
- vi. in respect of the receivership of Theotokos for the period to and including June 30, 2021 fees of \$1,901.17 (inclusive of HST, disbursements and a discount of \$263.80) were charged by Spergel as detailed in the Manchanda Affidavit. This represents a total of 5.15 hours at an effective rate of \$326.69 per hour;
  - vii. in respect of the receivership of Stoney Creek for the period to and including June 30, 2021 fees of \$110,832.28 (inclusive of HST, disbursements and a discount of \$17,216.60) were charged by Spergel as detailed in the Manchanda Affidavit. This represents a total of 351.40 hours at an effective rate of \$327.79 per hour;
  - viii. in respect of the receivership of Toronto Apothecary for the period to and including June 30, 2021 fees of \$117,938.98 (inclusive of HST, disbursements and a discount of \$17,840.35) were charged by Spergel as detailed in the Manchanda Affidavit. This represents a total of 374.80 hours at an effective rate of \$325.84 per hour;
  - ix. in respect of the receivership of Westway for the period to and including June 30, 2021 fees of \$1,356.54 (inclusive of HST, disbursements and a discount of \$297.60) were charged by Spergel as detailed in the Manchanda Affidavit. This represents a total of 5.40 hours at an effective rate of \$276.11 per hour;
  - x. in respect of the receivership of Olde Walkerville for the period to and including June 30, 2021 fees of \$134,025.94 (inclusive of HST, disbursements and a discount of \$22,580.55) were charged by Spergel as detailed in the Manchanda Affidavit. This represents a total of 420.95 hours at an effective rate of \$334.94 per hour;
  - xi. in respect of the receivership of Cooksville for the period to and including June 30, 2021 fees of \$1,901.17 (inclusive of HST, disbursements and a discount of \$263.80) were charged by Spergel as detailed in the

- Manchanda Affidavit. This represents a total of 5.15 hours at an effective rate of \$326.69 per hour;
- xii. in respect of the receivership of 4231 for the period to and including June 30, 2021 fees of \$20,622.35 (inclusive of HST, disbursements and a discount of \$2,423.80) were charged by Spergel as detailed in the Manchanda Affidavit. This represents a total of 62.00 hours at an effective rate of \$402.52 per hour;
  - xiii. in respect of the receivership of Jubilee for the period to and including June 30, 2021 fees of \$15,984.65 (inclusive of HST, disbursements and a discount of \$1,461.70) were charged by Spergel as detailed in the Manchanda Affidavit. This represents a total of 35.95 hours at an effective rate of \$433.75 per hour;
  - xiv. in respect of the receivership of JGWI for the period to and including June 30, 2021 fees of \$23,252.89 (inclusive of HST, disbursements and a discount of \$1,921.80) were charged by Spergel as detailed in the Manchanda Affidavit. This represents a total of 50.50 hours at an effective rate of \$445.40 per hour;
  - xv. in respect of the receivership of Brimley for the period to and including June 30, 2021 fees of \$84,269.75 (inclusive of HST, disbursements and a discount of \$15,284.00) were charged by Spergel as detailed in the Manchanda Affidavit. This represents a total of 299.80 hours at an effective rate of \$299.73 per hour;
66. The Receiver has reviewed the Receiver's Counsel's accounts and given the Receiver's involvement in this matter, the Receiver is of the view that all the work set out in Receiver's Counsel's accounts was carried out and was necessary. The hourly rates of the lawyers who worked on this matter were reasonable in light of the services required, and the services were carried out by lawyers with the appropriate level of experience.

**X. RECEIVER'S STATEMENTS OF RECEIPTS AND DISBURSEMENTS**

67. Attached to this Second Report as **Appendix "21"** are copies of the Receiver's Statements of Receipts and Disbursements as of June 30, 2021 for each of the Debtors.

**XI. RECOMMENDATION**

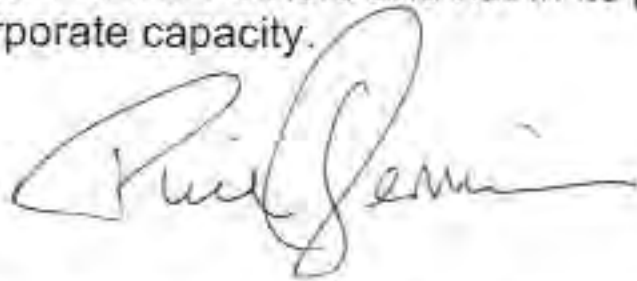
68. For the reasons outlined in this Second Report, the Receiver respectfully requests that the Court grant the relief specified at Paragraph 21 of this Second Report.

Dated at Toronto this 4<sup>th</sup> day of August, 2021.

**msi Spergel inc.**

solely in its capacity as the Court-appointed Receiver of the Debtors and not in its personal or corporate capacity.

Per:



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

# **APPENDIX 1**



Court File No. CV-20-00650853-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE MR. ) WEDNESDAY, THE  
JUSTICE CAVANAGH ) 25<sup>th</sup> DAY OF NOVEMBER, 2020

BETWEEN

1951584 ONTARIO INC. (formerly DESANTE FINANCIAL SERVICES INC.) and CWB  
MAXIUM FINANCIAL INC.

Applicants

-and-

4231 SHEPPARD AVENUE EAST INC., ABU SEIFEIN BRIMLEY PHARMA INC., BLESS  
JIMMY'S PHARMA INC., BLESS HUI PHARMA INC., BLESS PHARMA INC., JG  
WINDSOR INC., JIMMY'S GROUP INVESTORS INC., JM WESTVIEW PHARMA INC.,  
JUBILEE PROPERTY INVESTMENTS INC., MAPLE MEDI PHARMA INC., RESIDENT  
MEDICAL GROUP INC., RIVER HILL PHARMACY LTD., S&J PROPERTY INVESTORS  
INC., SJ COLBORNE PHARMA INC., SJ EAST PHARMA INC., ST. MARY COOKSVILLE  
PHARMA INC., ST. MARY THEOTOKOS PHARMA INC., STONEY CREEK PHARMA  
INC., TORONTO APOTHECARY PHARMA INC., TORONTO SURREY PHARMA INC.,  
WESTWAY HOLDINGS INC. and OLDE WALKERVILLE HOLDINGS INC.

Respondents

**ORDER**  
(appointing Receiver)

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing msi Spergel inc. ("Spergel") as receiver (in such capacity, the "Receiver") without security, of all of the assets, undertakings and properties of each of 4231 Sheppard Avenue East Inc., Abu Seifein Brimley Pharma Inc., Bless Jimmy's Pharma Inc., Bless Hui Pharma Inc., Bless Pharma Inc., JG Windsor Inc., Jimmy's Group Investors Inc., JM Westview Pharma Inc., Jubilee Property Investments Inc.,



Maple Medi Pharma Inc., Resident Medical Group Inc., River Hill Pharmacy Ltd., S&J Property Investors Inc., SJ Colborne Pharma Inc., SJ East Pharma Inc., St. Mary Cooksville Pharma Inc., St. Mary Theotokos Pharma Inc., Stoney Creek Pharma Inc., Toronto Apothecary Pharma Inc., Toronto Surrey Pharma Inc., Westway Holdings Inc. and Olde Walkerville Holdings Inc. acquired for, or used in relation to businesses carried on by the Respondents, was heard this day by ZOOM video conference due to the COVID-19 pandemic.

ON READING the Affidavit of Edward Hopkinson sworn October 30, 2020, Supplemental Affidavit of Edward Hopkinson sworn November 24, 2020 and on being advised that the Debtors (as defined below) consent to this Order, and on hearing the submissions of counsel for the Applicants and the Debtors and the other Counsel listed on the Counsel Slip, no one else appearing although duly served according to the Affidavit of Service of Asim Iqbal sworn November 24, 2020;

**SERVICE**

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

**APPOINTMENT**

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, Spergel is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of each of Bless Hui Pharma Inc., Maple Medi Pharma Inc., River Hill Pharmacy Ltd., St. Mary Theotokos Pharma Inc., Stoney Creek Pharma Inc., Toronto Apothecary Pharma Inc., Westway Holdings Inc., and Olde Walkerville Holdings Inc. (together, the “**Debtors**”) acquired for, or used in relation to a business carried on by each of the Debtors, including all proceeds thereof (collectively, the “**Property**”).

**RECEIVER’S POWERS**

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality

of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtors (or any one of them), including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors (or any one of them);
- (d) to engage pharmacists, consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors (or any one of them) or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors (or any one of them) and to exercise all remedies of the Debtors (or any one of them) in collecting such monies, including, without limitation, to enforce any security held by the Debtors (or any one of them);
- (g) to settle, extend or compromise any indebtedness owing to the Debtors (or any one of them);

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- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors (or any one of them), for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors (or any one of them), the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000.00, provided that the aggregate consideration for all such transactions does not exceed \$100,000.00; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* shall not be required;
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to summarily dispose of Property that is perishable or likely to depreciate rapidly in value;

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- (n) 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;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors (or any one of them);
- (q) to enter into agreements with any licensed insolvency trustee in bankruptcy appointed in respect of the Debtors (or any one of them), including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors (or any one of them);
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtors (or any one of them) may have;
- (s) to inquire into and report to the Applicants and the Court on the financial condition of the Debtors (or any one of them) and the Property; and
- (t) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;
- (u) and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors (or any one of them), and without interference from any other Person.

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

4. THIS COURT ORDERS that (i) the Debtors, (ii) all of their 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, including, but not limited to the Ontario College of Pharmacists, the Ministry of Health and Long-Term Care, the Ontario Drug Benefit Program and any insurance company (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 client records and prescription information ("**Client Records**"), books, documents, securities, contracts, orders, billing privileges, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors (or any one of them), 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, subject to Paragraph 6A herein, 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.

5A. THIS COURT ORDERS that, should the Receiver deem it necessary to seek from any insurance company or its pharmacy benefits manager personal information regarding persons covered pursuant to benefit plans which might have had claims under such plans relating to the Debtors (or any one of them), such information shall be sought pursuant to a motion on notice to the insurance company and its pharmacy benefits manager. Such information shall only be released by the insurance company or its pharmacy benefits manager on the agreement of such insurance company or as provided in the Order so obtained.

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.

6A. THIS COURT ORDERS that with respect to the Client Records, the Receiver shall: (i) take all steps reasonably necessary to maintain the integrity of the confidential aspects of the Client Records; (ii) if necessary, appoint a pharmacist licensed and qualified to practice in the Province of Ontario to act as custodian (the "Custodian") for the Client Records; (iii) not allow anyone other than the Receiver or the Custodian to have access to the Client Records; and (iv) allow the Debtors (or any one of them) supervised access to the Client Records for any purposes required pursuant to the *Regulated Health Professions Act, 1991*, the *Pharmacy Act, 1991* or any other governing Ontario or Canadian statute that requires the Debtors (or any one of them), from time to time, to perform certain obligations.

7. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

**NO PROCEEDINGS AGAINST THE RECEIVER**

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

**NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY**

9. THIS COURT ORDERS that no Proceeding against or in respect of the Debtors (or any one of them) or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors (or any one of them) or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

10. THIS COURT ORDERS that all rights and remedies against the Debtors (or any one of them), the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors (or any one of them) to carry on any business which the Debtors is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors (or any one of them) from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

**NO INTERFERENCE WITH THE RECEIVER**

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



### **CONTINUATION OF SERVICES**

12. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtors (or any one of them) 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, claims processing services, payment processing services, payroll services, insurance, transportation services, utility or other services to the Debtors (or any one of them) 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 applicable 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 applicable Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

### **RECEIVER TO HOLD FUNDS**

13. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

### **EMPLOYEES**

14. THIS COURT ORDERS that all employees of the Debtors (or any one of them) shall remain the employees of the Debtors (or any one of them) until such time as the Receiver, on the applicable Debtor's (or Debtors') behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer

liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

#### **PIPEDA**

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

16. THIS COURT ORDERS that, pursuant to section 42 of the *Ontario Personal Health Information Protection Act* (“**PHIPA**”), the Receiver shall only disclose personal health information to prospective purchasers or bidders who are potential successor(s) to the pharmacy business of the Debtors (or any one of them) (the “**Pharmacy**”) as Health Information Custodian(s) (as defined in the PHIPA) for the purposes of allowing the potential successor to assess and evaluate the operations of the Pharmacy. Each potential successor to whom such personal health information is disclosed is required in advance of such disclosure to review and sign an acknowledgement of this Order indicating that it agrees to keep the information confidential and secure and not to retain any of the information longer than is necessary for the purposes of the assessment or evaluation, and if such potential successor does not complete a Sale, such potential successor shall return all such information to the Receiver, or in the alternative shall destroy all such information. Such acknowledgement shall be deemed to be an agreement between the Receiver and the potential successor for the purposes of section 42 of PHIPA.

**LIMITATION ON ENVIRONMENTAL LIABILITIES**

17. 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**

18. 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**

19. 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.

20. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

21. 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**

22. 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 \$450,000 (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.

23. 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.

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

25. 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**

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

27. 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 applicable Debtor’s creditors or other interested parties at their respective addresses as last shown on the records of the applicable 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.

**ALLOCATION**

28. THIS COURT ORDERS that any interested party may apply to this Court on notice to any other party likely to be affected, for an order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the various Debtors and their assets comprising the Property

**GENERAL**

29. 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.

30. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors (or any one of them).

31. 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.

32. 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.

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

34. 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.

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



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ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

DEC 01 2020

PER / PAR:



**SCHEDULE "A"**

**RECEIVER CERTIFICATE**

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

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

1. THIS IS TO CERTIFY that msi Spergel inc., the Receiver (the "Receiver") of the assets, undertakings and properties of 2503338 Ontario Inc., 4231 Sheppard Avenue, Abu Seifein Brimley Pharma Inc., Bless Jimmy's Pharma Inc., Bless Pharma Inc., JG Windsor Inc., Jimmy's Group Investors Inc., JM Westview Pharma Inc., Jubilee Property Investments Inc., Maple Medi Pharma Inc., Resident Medical Group Inc., River Hill Pharmacy Ltd., S&J Property Investors Inc., SJ Colborne Pharma Inc., St. Mary Cooksville Pharma Inc., St. Mary Theotokos Pharma Inc., Stoney Creek Pharma Inc., Toronto Apothecary Pharma Inc., Toronto Surrey Pharma Inc., Westway Holdings Inc., and Olde Walkerville Holdings Inc., (collectively the "Debtors") acquired for, or used in relation to businesses carried on by the Debtors, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the \_\_ day of \_\_\_\_\_, 2020 (the "Order") made in an action having Court file number CV-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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



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

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

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

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

DATED the \_\_\_\_ day of \_\_\_\_\_, 2020.

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

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

Name:

Title:

1951584 ONTARIO INC. et al.  
Applicants

and

4231 SHEPPARD AVENUE EAST INC., et al.  
Respondents

Court File No: CV-20-00650853-00CL

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Commercial List)**

Proceeding commenced at Toronto

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**ORDER  
(APPOINTING RECEIVER)**

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**MILLER THOMSON LLP**

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Lawyers for the Applicants

# **APPENDIX 2**

Court File No. CV-20-00650853-00CL

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

THE HONOURABLE MR. ) TUESDAY, THE  
 )  
JUSTICE CAVANAGH ) 26<sup>th</sup> DAY OF JANUARY, 2021

BETWEEN

1951584 ONTARIO INC. (formerly DESANTE FINANCIAL SERVICES INC.) and CWB  
MAXIUM FINANCIAL INC.

Applicants

-and-

4231 SHEPPARD AVENUE EAST INC., ABU SEIFEIN BRIMLEY PHARMA INC., BLESS  
HUI PHARMA INC., BLESS JIMMY’S PHARMA INC., BLESS PHARMA INC., JG  
WINDSOR INC., JIMMY’S GROUP INVESTORS INC., JM WESTVIEW PHARMA INC.,  
JUBILEE PROPERTY INVESTMENTS INC., MAPLE MEDI PHARMA INC., RIVER HILL  
PHARMACY LTD., S&J PROPERTY INVESTORS INC., SJ EAST PHARMA INC., ST.  
MARY COOKSVILLE PHARMA INC., ST. MARY THEOTOKOS PHARMA INC., STONEY  
CREEK PHARMA INC., TORONTO APOTHECARY PHARMA INC., TORONTO SURREY  
PHARMA INC., WESTWAY HOLDINGS INC. AND OLDE WALKERVILLE HOLDINGS  
INC.

Respondents

**AMENDED AND RESTATED RECEIVERSHIP 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. (“**Spergel**”) as receiver (in such capacity, the “**Receiver**”) without security, of all of the assets, undertakings and properties of each of the Respondents acquired for, or used in relation to

businesses carried on by the Respondents, was heard this day by ZOOM video conference due to the COVID-19 pandemic.

ON READING the Order of this Court dated November 25, 2020, among other things, appointing Spergel as Receiver of the Debtors (as defined below) (the “**Receivership Order**”), the Amended and Restated Receivership Order dated December 7, 2020 amending and restating the Receivership Order (the “**Amended Receivership Order**”), the Order of this Court dated January 8, 2021, among other things, authorizing the issuance of this Amended and Restated Receivership Order, the Affidavit of Edward Hopkinson sworn October 30, 2020, Supplemental Affidavit of Edward Hopkinson sworn November 24, 2020 and on being advised that the Debtors (as defined below) consent to this Order, and on hearing the submissions of counsel for the Applicants and the Debtors and the other Counsel listed on the Counsel Slip, no one else appearing although duly served according to the Affidavit of Service of Asim Iqbal sworn November 24, 2020;

## **INTERPRETATION**

1. **THIS COURT ORDERS** that, in this Order, the term “**Order Date**” shall mean the following:

- (a) November 25, 2020, with respect to Bless Hui Pharma Inc., Maple Medi Pharma Inc., River Hill Pharmacy Ltd., St. Mary Theotokos Pharma Inc., Stoney Creek Pharma Inc., Toronto Apothecary Pharma Inc., Westway Holdings Inc., and Olde Walkerville Holdings Inc.; and
- (b) January 26, 2021, with respect to JM Westview Pharma Inc. and SJ East Pharma Inc.

## **SERVICE**

2. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

## **APPOINTMENT**

3. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, Spergel is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of each of the Respondents, being Bless Hui Pharma Inc., JM Westview Pharma Inc., Maple Medi Pharma Inc., River Hill Pharmacy Ltd., SJ East Pharma Inc., St. Mary Theotokos Pharma Inc., Stoney Creek Pharma Inc., Toronto Apothecary Pharma Inc., Westway Holdings Inc., and Olde Walkerville Holdings Inc. (together, the “**Debtors**”) acquired for, or used in relation to a business carried on by each of the Debtors, including all proceeds thereof (collectively, the “**Property**”).

### RECEIVER’S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtors (or any one of them), including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors (or any one of them);
- (d) to engage pharmacists, consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the

Receiver's powers and duties, including without limitation those conferred by this Order;

- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors (or any one of them) or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors (or any one of them) and to exercise all remedies of the Debtors (or any one of them) in collecting such monies, including, without limitation, to enforce any security held by the Debtors (or any one of them);
- (g) to settle, extend or compromise any indebtedness owing to the Debtors (or any one of them);
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors (or any one of them), for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors (or any one of them), the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

- (i) without the approval of this Court in respect of any transaction not exceeding \$50,000.00, provided that the aggregate consideration for all such transactions does not exceed \$100,000.00; and
- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* shall not be required;

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to summarily dispose of Property that is perishable or likely to depreciate rapidly in value;
- (n) 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;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors (or any one of them);
- (q) to enter into agreements with any licensed insolvency trustee in bankruptcy appointed in respect of the Debtors (or any one of them), including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors (or any one of them);



- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtors (or any one of them) may have;
- (s) to inquire into and report to the Applicants and the Court on the financial condition of the Debtors (or any one of them) and the Property; and
- (t) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;
- (u) and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors (or any one of them), and without interference from any other Person.

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

5. THIS COURT ORDERS that (i) the Debtors, (ii) all of their 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, including, but not limited to the Ontario College of Pharmacists, the Ministry of Health and Long-Term Care, the Ontario Drug Benefit Program and any insurance company (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.

6. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any client records and prescription information ("**Client Records**"), books, documents, securities, contracts, orders, billing privileges, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors (or any one of them), 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, subject to Paragraph 7A herein, 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 6 or in paragraph 7 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.

6A. THIS COURT ORDERS that, should the Receiver deem it necessary to seek from any insurance company or its pharmacy benefits manager personal information regarding persons covered pursuant to benefit plans which might have had claims under such plans relating to the Debtors (or any one of them), such information shall be sought pursuant to a motion on notice to the insurance company and its pharmacy benefits manager. Such information shall only be released by the insurance company or its pharmacy benefits manager on the agreement of such insurance company or as provided in the Order so obtained.

7. 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.

6A. THIS COURT ORDERS that with respect to the Client Records, the Receiver shall: (i) take all steps reasonably necessary to maintain the integrity of the confidential aspects of the Client Records; (ii) if necessary, appoint a pharmacist licensed and qualified to practice in the Province of Ontario to act as custodian (the "Custodian") for the Client Records; (iii) not allow anyone other

than the Receiver or the Custodian to have access to the Client Records; and (iv) allow the Debtors (or any one of them) supervised access to the Client Records for any purposes required pursuant to the *Regulated Health Professions Act, 1991*, the *Pharmacy Act, 1991* or any other governing Ontario or Canadian statute that requires the Debtors (or any one of them), from time to time, to perform certain obligations.

8. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

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

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

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

10. THIS COURT ORDERS that no Proceeding against or in respect of the Debtors (or any one of them) or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors (or any one of them) or the Property are hereby stayed and suspended pending further Order of this Court.

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

11. THIS COURT ORDERS that all rights and remedies against the Debtors (or any one of them), the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and

suspension does not apply in respect of any “eligible financial contract” as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors (or any one of them) to carry on any business which the Debtors is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors (or any one of them) from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

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

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

#### **CONTINUATION OF SERVICES**

13. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtors (or any one of them) 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, claims processing services, payment processing services, payroll services, insurance, transportation services, utility or other services to the Debtors (or any one of them) 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 applicable 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 Order Date are paid by the Receiver in accordance with normal payment practices of the applicable 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**

14. 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 Order Date 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**

15. THIS COURT ORDERS that all employees of the Debtors (or any one of them) shall remain the employees of the Debtors (or any one of them) until such time as the Receiver, on the applicable Debtor’s (or Debtors’) behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

### **PIPEDA**

16. 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 applicable Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

17. THIS COURT ORDERS that, pursuant to section 42 of the Ontario *Personal Health Information Protection Act* (“**PHIPA**”), the Receiver shall only disclose personal health information to prospective purchasers or bidders who are potential successor(s) to the pharmacy business of the Debtors (or any one of them) (the “**Pharmacy**”) as Health Information Custodian(s) (as defined in the PHIPA) for the purposes of allowing the potential successor to assess and evaluate the operations of the Pharmacy. Each potential successor to whom such personal health information is disclosed is required in advance of such disclosure to review and sign an acknowledgement of this Order indicating that it agrees to keep the information confidential and secure and not to retain any of the information longer than is necessary for the purposes of the assessment or evaluation, and if such potential successor does not complete a Sale, such potential successor shall return all such information to the Receiver, or in the alternative shall destroy all such information. Such acknowledgement shall be deemed to be an agreement between the Receiver and the potential successor for the purposes of section 42 of PHIPA.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

18. 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**

19. 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**

20. 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.

21. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

22. 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**

23. 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 \$450,000 (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.

24. 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.

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

26. 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**

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



28. 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 applicable Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the applicable 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.

### **ALLOCATION**

29. THIS COURT ORDERS that any interested party may apply to this Court on notice to any other party likely to be affected, for an order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the various Debtors and their assets comprising the Property

### **GENERAL**

30. 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.

31. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors (or any one of them).

32. 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.

33. 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.

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

35. 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.

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

Peter Cavanagh

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Digitally signed by Peter  
Cavanagh  
Date: 2021.01.26 10:13:01 -05'00'

**SCHEDULE "A"**

**RECEIVER CERTIFICATE**

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

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

1. THIS IS TO CERTIFY that msi Spergel inc., the Receiver (the "**Receiver**") of the assets, undertakings and properties of Bless Hui Pharma Inc., JM Westview Pharma Inc., Maple Medi Pharma Inc., River Hill Pharmacy Ltd., SJ East Pharma Inc., St. Mary Theotokos Pharma Inc., Stoney Creek Pharma Inc., Toronto Apothecary Pharma Inc., Westway Holdings Inc. and Olde Walkerville Holdings Inc. (collectively the "**Debtors**") acquired for, or used in relation to businesses carried on by the Debtors, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the \_\_\_ day of \_\_\_\_\_, 2020 (the "**Order**") made in an action having Court file number CV-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

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

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

DATED the \_\_\_\_ day of \_\_\_\_\_, 2020.

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

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

**1951584 ONTARIO INC.** et al.  
Applicants

and **BLESS HUI PHARMA INC.,** et al.  
Respondents

Court File No: CV-20-00650853-00CL

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(Commercial List)**

Proceeding commenced at Toronto

**ORDER**  
(AMENDED AND RESTATED RECEIVERSHIP ORDER)

**MILLER THOMSON LLP**

Scotia Plaza  
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Lawyers for the Applicants

# **APPENDIX 3**

Court File No. CV-20-00650853-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE MR. ) WEDNESDAY, THE  
JUSTICE CAVANAGH ) 3<sup>rd</sup> DAY OF FEBRUARY, 2021

BETWEEN

1951584 ONTARIO INC. (formerly DESANTE FINANCIAL SERVICES INC.) and CWB  
MAXIUM FINANCIAL INC.

Applicants

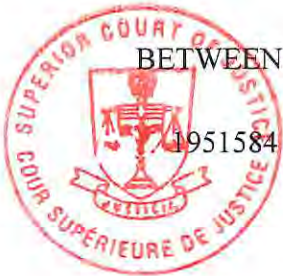
-and-

4231 SHEPPARD AVENUE EAST INC., ABU SEIFEIN BRIMLEY PHARMA INC., BLESS  
HUI PHARMA INC., JG WINDSOR INC., JM WESTVIEW PHARMA INC., JUBILEE  
PROPERTY INVESTMENTS INC., MAPLE MEDI PHARMA INC., RIVER HILL  
PHARMACY LTD., SJ EAST PHARMA INC., ST. MARY COOKSVILLE PHARMA INC.,  
ST. MARY THEOTOKOS PHARMA INC., STONEY CREEK PHARMA INC., TORONTO  
APOTHECARY PHARMA INC., WESTWAY HOLDINGS INC. AND OLDE  
WALKERVILLE HOLDINGS INC.

Respondents

**AMENDED AND RESTATED RECEIVERSHIP 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. (“Spergel”) as receiver (in such capacity, the “Receiver”) without security, of all of the assets, undertakings and properties of each of the Respondents acquired for, or used in relation to businesses carried on by the Respondents, was heard this day by ZOOM video conference due to the COVID-19 pandemic.



ON READING the Order of this Court dated November 25, 2020, among other things, appointing Spergel as Receiver of the Debtors (as defined below) (the “**Receivership Order**”), the Amended and Restated Receivership Order dated December 7, 2020 amending and restating the Receivership Order, and by the Order of this Court dated January 8, 2021 and the Order of this Court dated January 26, 2021, among other things, authorizing the issuance of this Amended and Restated Receivership Order (as amended and restated, the “**Amended Receivership Order**”), the Affidavit of Edward Hopkinson sworn October 30, 2020, Supplemental Affidavit of Edward Hopkinson sworn November 24, 2020 and on being advised that the Debtors (as defined below) consent to this Order, and on hearing the submissions of counsel for the Applicants and the Debtors and the other Counsel listed on the Counsel Slip, no one else appearing although duly served according to the Affidavit of Service of Asim Iqbal sworn November 24, 2020; and

ON READING the Affidavit of Edward Hopkinson sworn October 30, 2020, Affidavit of Edward Hopkinson sworn January 24, 2021, the Supplemental Affidavit of Edward Hopkinson sworn January 29, 2021, the Reply Affidavit of Edward Hopkinson sworn February 1, 2021, the Report of msi Spergel inc. in its capacity as Proposed Receiver dated January 25, 2021, First Report of msi Spergel inc. in its capacity as Receiver SJ East Pharma Inc., JM Westview Pharma Inc. and others dated February 1, 2021, the Responding Motion Record of the Respondents and the Supplementary Responding Affidavit of Gamal Gerges sworn February 2, 2021, and on hearing the submissions of counsel for the Applicants and the Respondents and the other Counsel listed on the Counsel Slip, no one else appearing although duly served according to the Affidavit of Service of Asim Iqbal, sworn January 25, 2021, and on being advised that the Applicants and the Respondent consent to this Order;

## **INTERPRETATION**

1. **THIS COURT ORDERS** that, in this Order, the term “**Order Date**” shall mean the following:

- (a) November 25, 2020, with respect to Bless Hui Pharma Inc., Maple Medi Pharma Inc., River Hill Pharmacy Ltd., St. Mary Theotokos Pharma Inc., Stoney Creek Pharma Inc., Toronto Apothecary Pharma Inc., Westway Holdings Inc., and Olde Walkerville Holdings Inc.;



- (b) January 26, 2021, with respect to JM Westview Pharma Inc. and SJ East Pharma Inc.; and
- (c) February 3<sup>rd</sup>, 2021, with respect to St. Mary Cooksville Pharma Inc., 4231 Sheppard Avenue East Inc., Jubilee Property Investors Inc., and JG Windsor Inc.

### **SERVICE**

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

### **APPOINTMENT**

3. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, Spergel is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of each of the Respondents, being 4231 Sheppard Avenue East Inc., Bless Hui Pharma Inc., JG Windsor Inc., JM Westview Pharma Inc., Jubilee Property Investments Inc., Maple Medi Pharma Inc., River Hill Pharmacy Ltd., SJ East Pharma Inc., St. Mary Cooksville Pharma Inc., St. Mary Theotokos Pharma Inc., Stoney Creek Pharma Inc., Toronto Apothecary Pharma Inc., Westway Holdings Inc., and Olde Walkerville Holdings Inc. (together, the “**Debtors**”) acquired for, or used in relation to a business carried on by each of the Debtors, including all proceeds thereof (collectively, the “**Property**”).

### **RECEIVER’S POWERS**

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;

- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtors (or any one of them), including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors (or any one of them);
- (d) to engage pharmacists, consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors (or any one of them) or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors (or any one of them) and to exercise all remedies of the Debtors (or any one of them) in collecting such monies, including, without limitation, to enforce any security held by the Debtors (or any one of them);
- (g) to settle, extend or compromise any indebtedness owing to the Debtors (or any one of them);
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors (or any one of them), for any purpose pursuant to this Order;

- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors (or any one of them), the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

- (i) without the approval of this Court in respect of any transaction not exceeding \$50,000.00, provided that the aggregate consideration for all such transactions does not exceed \$100,000.00; and
- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* shall not be required;

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to summarily dispose of Property that is perishable or likely to depreciate rapidly in value;
- (n) 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;

- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors (or any one of them);
- (q) to enter into agreements with any licensed insolvency trustee in bankruptcy appointed in respect of the Debtors (or any one of them), including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors (or any one of them);
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtors (or any one of them) may have;
- (s) to inquire into and report to the Applicants and the Court on the financial condition of the Debtors (or any one of them) and the Property;
- (t) to file an assignment in bankruptcy on behalf of the Debtors (or any one of them);
- (u) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations; and
- (v) and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors (or any one of them), and without interference from any other Person.

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

5. THIS COURT ORDERS that (i) the Debtors, (ii) all of their 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, including, but not limited to the Ontario College of Pharmacists, the Ministry of Health and Long-Term Care, the Ontario Drug Benefit Program and any insurance company (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.

6. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any client records and prescription information ("**Client Records**"), books, documents, securities, contracts, orders, billing privileges, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors (or any one of them), 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, subject to Paragraph 7A herein, 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 6 or in paragraph 7 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.

6A. THIS COURT ORDERS that, should the Receiver deem it necessary to seek from any insurance company or its pharmacy benefits manager personal information regarding persons covered pursuant to benefit plans which might have had claims under such plans relating to the Debtors (or any one of them), such information shall be sought pursuant to a motion on notice to the insurance company and its pharmacy benefits manager. Such information shall only be released by the insurance company or its pharmacy benefits manager on the agreement of such insurance company or as provided in the Order so obtained.

7. 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.

7A. THIS COURT ORDERS that with respect to the Client Records, the Receiver shall: (i) take all steps reasonably necessary to maintain the integrity of the confidential aspects of the Client Records; (ii) if necessary, appoint a pharmacist licensed and qualified to practice in the Province of Ontario to act as custodian (the "Custodian") for the Client Records; (iii) not allow anyone other than the Receiver or the Custodian to have access to the Client Records; and (iv) allow the Debtors (or any one of them) supervised access to the Client Records for any purposes required pursuant to the *Regulated Health Professions Act, 1991*, the *Pharmacy Act, 1991* or any other governing Ontario or Canadian statute that requires the Debtors (or any one of them), from time to time, to perform certain obligations.

8. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

**NO PROCEEDINGS AGAINST THE RECEIVER**

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

**NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY**

10. THIS COURT ORDERS that no Proceeding against or in respect of the Debtors (or any one of them) or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors (or any one of them) or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

11. THIS COURT ORDERS that all rights and remedies against the Debtors (or any one of them), the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors (or any one of them) to carry on any business which the Debtors is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors (or any one of them) from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

**NO INTERFERENCE WITH THE RECEIVER**

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

### **CONTINUATION OF SERVICES**

13. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtors (or any one of them) 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, claims processing services, payment processing services, payroll services, insurance, transportation services, utility or other services to the Debtors (or any one of them) 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 applicable 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 Order Date are paid by the Receiver in accordance with normal payment practices of the applicable 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**

14. 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 Order Date 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**

15. THIS COURT ORDERS that all employees of the Debtors (or any one of them) shall remain the employees of the Debtors (or any one of them) until such time as the Receiver, on the applicable Debtor's (or Debtors') behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer



liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

#### **PIPEDA**

16. 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 applicable Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

17. THIS COURT ORDERS that, pursuant to section 42 of the Ontario *Personal Health Information Protection Act* (“PHIPA”), the Receiver shall only disclose personal health information to prospective purchasers or bidders who are potential successor(s) to the pharmacy business of the Debtors (or any one of them) (the “Pharmacy”) as Health Information Custodian(s) (as defined in the PHIPA) for the purposes of allowing the potential successor to assess and evaluate the operations of the Pharmacy. Each potential successor to whom such personal health information is disclosed is required in advance of such disclosure to review and sign an acknowledgement of this Order indicating that it agrees to keep the information confidential and secure and not to retain any of the information longer than is necessary for the purposes of the assessment or evaluation, and if such potential successor does not complete a Sale, such potential successor shall return all such information to the Receiver, or in the alternative shall destroy all such information. Such acknowledgement shall be deemed to be an agreement between the Receiver and the potential successor for the purposes of section 42 of PHIPA.

### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

18. 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**

19. 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**

20. 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.

21. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

22. 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**

23. 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 \$600,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

24. 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.

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

26. 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**

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

28. 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 applicable Debtor’s creditors or other interested parties at their respective addresses as last shown on the records of the applicable 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.

**ALLOCATION**

29. THIS COURT ORDERS that any interested party may apply to this Court on notice to any other party likely to be affected, for an order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the various Debtors and their assets comprising the Property

**GENERAL**

30. 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.

31. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors (or any one of them).

32. 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.

33. 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.

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

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35. 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.

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



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ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

FEB 05 2021

PER / PAR:



**SCHEDULE "A"**

**RECEIVER CERTIFICATE**

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

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

1. THIS IS TO CERTIFY that msi Spergel inc., the Receiver (the "**Receiver**") of the assets, undertakings and properties of 4231 Sheppard Avenue East Inc., Bless Hui Pharma Inc., JG Windsor Inc., JM Westview Pharma Inc., Jubilee Property Investments Inc., Maple Medi Pharma Inc., River Hill Pharmacy Ltd., SJ East Pharma Inc., St. Mary Cooksville Pharma Inc., St. Mary Theotokos Pharma Inc., Stoney Creek Pharma Inc., Toronto Apothecary Pharma Inc., Westway Holdings Inc., and Olde Walkerville Holdings Inc. (collectively the "**Debtors**") acquired for, or used in relation to businesses carried on by the Debtors, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the \_\_ day of \_\_\_\_\_, 2021 (the "**Order**") made in an action having Court file number CV-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.
7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 2021.

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

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

Name:

Title:



1951584 ONTARIO INC. et al.  
Applicants

and BLESS HUI PHARMA INC., et al.  
Respondents

Court File No: CV-20-00650853-00CL

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Commercial List)**

Proceeding commenced at Toronto

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**ORDER**  
(AMENDED AND RESTATED RECEIVERSHIP ORDER)

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**MILLER THOMSON LLP**

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Lawyers for the Applicants

# **APPENDIX 4**

Court File No. CV-20-00650853-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. ) THURSDAY , THE 8th  
JUSTICE CAVANAGH )  
DAY OF APRIL , 2021

BETWEEN

1951584 ONTARIO INC. (formerly DESANTE FINANCIAL SERVICES INC.) and CWB  
MAXIUM FINANCIAL INC.

Applicants

-and-

4231 SHEPPARD AVENUE EAST INC., ABU SEIFEIN BRIMLEY PHARMA INC., BLESS  
HUI PHARMA INC., JG WINDSOR INC., JM WESTVIEW PHARMA INC., JUBILEE  
PROPERTY INVESTMENTS INC., MAPLE MEDI PHARMA INC., RIVER HILL  
PHARMACY LTD., SJ EAST PHARMA INC., ST. MARY COOKSVILLE PHARMA INC.,  
ST. MARY THEOTOKOS PHARMA INC., STONEY CREEK PHARMA INC., TORONTO  
APOTHECARY PHARMA INC., WESTWAY HOLDINGS INC. AND OLDE  
WALKERVILLE HOLDINGS INC.

Respondents

**ORDER  
(appointing Receiver)**

THIS MOTION made by the Applicants for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing msi Spergel inc. (“**Spergel**”) as receiver (in such capacity, the “**Receiver**”) without security, of all of the assets, undertakings and properties of Abu Seifein Brimley Pharma Inc. acquired for, or used in relation to businesses carried on by Abu Seifein Brimley Pharma Inc., was heard this day by ZOOM video conference due to the COVID-19 pandemic.



ON READING the Order of this Court dated November 25, 2020, among other things, appointing Spergel as Receiver of certain of the Respondents (the “**Receivership Order**”) as amended and restated by the Amended and Restated Receivership Order dated February 3, 2021 (as may be further amended and restated from time to time, the “**Amended Receivership Order**”), the Order of this Court dated February 3, 2021 among other things, appointing Spergel as interim receiver of the assets, property and undertaking of Abu Seifein Brimley Pharma Inc. (the “**Interim Receivership Order**”), the Affidavit of Edward Hopkinson sworn October 30, 2020, the Supplemental Affidavit of Edward Hopkinson sworn November 24, 2020, the Affidavit of Edward Hopkinson sworn January 25, 2021, the Supplemental Affidavit of Edward Hopkinson sworn January 29, 2021, and the Affidavit of Edward Hopkinson sworn April 5, 2021 and on hearing the submissions of counsel for the Applicants and the Debtors and the other Counsel listed on the Counsel Slip, no one else appearing although duly served according to the Affidavit of Service of Shallon Garrafa sworn April 6, 2021.

### **SERVICE**

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

### **APPOINTMENT**

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, Spergel is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of Abu Seifein Brimley Pharma Inc. (“**Abu Seifein**”) acquired for, or used in relation to a business carried on by Abu Seifein, including all proceeds thereof (collectively, the “**Property**”).

3. For greater certainty, upon the appointment of Spergel as Receiver of the assets, property and undertaking of Abu Seifein pursuant to the terms of this Order, the Interim Receivership Order shall have no further force and effect. Spergel’s discharge as interim receiver of the assets, property and undertaking of Abu Seifein is confirmed.

**RECEIVER'S POWERS**

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of Abu Seifein, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of Abu Seifein;
- (d) to engage pharmacists, consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of Abu Seifein or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to Abu Seifein and to exercise all remedies of Abu Seifein in collecting such monies, including, without limitation, to enforce any security held by Abu Seifein;
- (g) to settle, extend or compromise any indebtedness owing to Abu Seifein;

- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of Abu Seifein for any purpose pursuant to this Order;
  - (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Abu Seifein, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
  - (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
  - (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
    - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000.00, provided that the aggregate consideration for all such transactions does not exceed \$100,000.00; and
    - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;
- and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* shall not be required;
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
  - (m) to summarily dispose of Property that is perishable or likely to depreciate rapidly in value;

- (n) 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;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) 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 Abu Seifein;
- (q) to enter into agreements with any licensed insolvency trustee in bankruptcy appointed in respect of Abu Seifein including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by Abu Seifein;
- (r) to exercise any shareholder, partnership, joint venture or other rights which Abu Seifein may have;
- (s) to inquire into and report to the Applicants and the Court on the financial condition of Abu Seifein and the Property;
- (t) to file an assignment in bankruptcy on behalf of Abu Seifein;
- (u) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;
- (v) 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 Abu Seifein, and without interference from any other Person.

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

5. THIS COURT ORDERS that (i) Abu Seifein, (ii) all of their 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, including, but not limited to the Ontario College of Pharmacists, the Ministry of Health and Long-Term Care, the Ontario Drug Benefit Program and any insurance company (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.

6. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any client records and prescription information ("**Client Records**"), books, documents, securities, contracts, orders, billing privileges, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of Abu Seifein, 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, subject to Paragraph 7A herein, 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 6 or in paragraph 7 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.

6A. THIS COURT ORDERS that, should the Receiver deem it necessary to seek from any insurance company or its pharmacy benefits manager personal information regarding persons covered pursuant to benefit plans which might have had claims under such plans relating to Abu Seifein, such information shall be sought pursuant to a motion on notice to the insurance company and its pharmacy benefits manager. Such information shall only be released by the insurance



company or its pharmacy benefits manager on the agreement of such insurance company or as provided in the Order so obtained.

7. 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.

6A. THIS COURT ORDERS that with respect to the Client Records, the Receiver shall: (i) take all steps reasonably necessary to maintain the integrity of the confidential aspects of the Client Records; (ii) if necessary, appoint a pharmacist licensed and qualified to practice in the Province of Ontario to act as custodian (the “Custodian”) for the Client Records; (iii) not allow anyone other than the Receiver or the Custodian to have access to the Client Records; and (iv) allow Abu Seifein supervised access to the Client Records for any purposes required pursuant to the *Regulated Health Professions Act, 1991*, the *Pharmacy Act, 1991* or any other governing Ontario or Canadian statute that requires Abu Seifein, from time to time, to perform certain obligations.

8. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver’s intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver’s entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable

secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

**NO PROCEEDINGS AGAINST THE RECEIVER**

9. 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**

10. THIS COURT ORDERS that no Proceeding against or in respect of Abu Seifein or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of Abu Seifein or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

11. THIS COURT ORDERS that all rights and remedies Abu Seifein, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or Abu Seifein to carry on any business which Abu Seifein is not lawfully entitled to carry on, (ii) exempt the Receiver or Abu Seifein from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

**NO INTERFERENCE WITH THE RECEIVER**

12. 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 Abu Seifein without written consent of the Receiver or leave of this Court.

**CONTINUATION OF SERVICES**

13. THIS COURT ORDERS that all Persons having oral or written agreements with Abu Seifein 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, claims processing services, payment processing services, payroll services, insurance, transportation services, utility or other services to Abu Seifein 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 Abu Seifein'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 Order Date are paid by the Receiver in accordance with normal payment practices of Abu Seifein 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**

14. 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 Order Date 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**

15. THIS COURT ORDERS that all employees of Abu Seifein shall remain the employees of Abu Seifein until such time as the Receiver, on Abu Seifein's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect

of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

### **PIPEDA**

16. 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 Abu Seifein, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

17. THIS COURT ORDERS that, pursuant to section 42 of the Ontario *Personal Health Information Protection Act* (“**PHIPA**”), the Receiver shall only disclose personal health information to prospective purchasers or bidders who are potential successor(s) to the pharmacy business of Abu Seifein (the “**Pharmacy**”) as Health Information Custodian(s) (as defined in the PHIPA) for the purposes of allowing the potential successor to assess and evaluate the operations of the Pharmacy. Each potential successor to whom such personal health information is disclosed is required in advance of such disclosure to review and sign an acknowledgement of this Order indicating that it agrees to keep the information confidential and secure and not to retain any of the information longer than is necessary for the purposes of the assessment or evaluation, and if such potential successor does not complete a Sale, such potential successor shall return all such information to the Receiver, or in the alternative shall destroy all such information. Such acknowledgement shall be deemed to be an agreement between the Receiver and the potential successor for the purposes of section 42 of PHIPA.

### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

18. 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**

19. 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**

20. 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.

21. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

22. 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**

23. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$100,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

24. 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.

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

26. 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**

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

28. 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 Abu Seifein’s creditors or other interested parties at their respective addresses as last shown on the records of Abu Seifein 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**

29. 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.

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

31. 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.

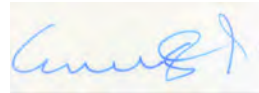
32. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized 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.

33. THIS COURT ORDERS that the Applicant shall have its costs of this motion, 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 Abu Seifein's estate with such priority and at such time as this Court may determine.

34. 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.



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



Digitally signed by  
Mr. Justice Cavanagh

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**SCHEDULE "A"**

**RECEIVER CERTIFICATE**

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

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

1. THIS IS TO CERTIFY that msi Spergel inc., the Receiver (the "**Receiver**") of the assets, undertakings and properties of Abu Seifein Brimley Pharma Inc ("**Abu Seifein**"). acquired for, or used in relation to businesses carried on by Abu Seifein, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the \_\_ day of \_\_\_\_\_, 2021 (the "**Order**") made in an action having Court file number CV-20-00650853-00CL has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

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

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

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

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

DATED the \_\_\_\_ day of \_\_\_\_\_, 2021.

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

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

**1951584 ONTARIO INC.** et al.  
Applicants

and **BLESS HUI PHARMA INC.,** et al.  
Respondents

Court File No: CV-20-00650853-00CL

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(Commercial List)**

Proceeding commenced at Toronto

**ORDER**  
**(APPOINTING RECEIVER)**

**MILLER THOMSON LLP**  
Scotia Plaza  
40 King Street West, Suite 5800  
P.O. Box 1011  
Toronto, ON Canada M5H 3S1

**Asim Iqbal, LSO#: 61884B**  
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Lawyers for the Applicants

# **APPENDIX 5**

Court File No. CV-20-00650853-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**1951584 ONTARIO INC. (formerly DESANTE FINANCIAL SERVICES INC.) and  
CWB MAXIUM FINANCIAL INC.**

Applicants

- and -

**BLESS HUI PPHARMA INC., JM WESTVIEW PHARMA INC., MAPLE MEDI  
PHARMA INC., RIVER HILL PHARMACY LTD., SJ EAST PHARMA INC., ST. MARY  
THEOTOKOS PHARMA INC., STONEY CREEK PHARMA INC., TORONTO  
APOTHECARY PHARMA INC., WESTWAY HOLDINGS INC. and OLDE  
WALKERVILLE HOLDINGS INC.**

Respondents

**REPORT OF MSI SPERGEL INC.  
IN ITS CAPACITY AS THE PROPOSED RECEIVER OF 4231 SHEPPARD AVENUE  
EAST INC., ABU SEIFEIN BRIMLEY PHARMA INC., BLESS JIMMY'S PHARMA  
INC., JG WINDSOR INC., JIMMY'S GROUP INVESTORS INC.,  
JM WESTVIEW PHARMA INC., JUBILEE PROPERTY INVESTMENTS INC., S&J  
PROPERTY INVESTORS INC., SJ EAST PHARMA INC., ST. MARY COOKSVILLE  
PHARMA INC. AND TORONTO SURREY PHARMA INC.**

**January 25, 2021**

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8. Picture of the St. Mary Inspection



**I. PURPOSE OF THIS REPORT**

1. This report (this “**Report**”) is prepared by msi Spergel inc. (“**Spergel**”) in its capacity as the proposed receiver (in such capacity, the “**Proposed Receiver**”) of the following entities:
  - a) 4231 Sheppard Avenue East Inc. (“**4231 Sheppard**”);
  - b) Abu Seifein Brimley Pharma Inc. (“**Abu Seifein**”);
  - c) Bless Jimmy’s Pharma Inc. (“**Bless Jimmy**”);
  - d) JG Windsor Inc. (“**JG Windsor**”);
  - e) Jimmy’s Group Investors Inc. (“**Jimmy’s Group**”);
  - f) JM Westview Pharma Inc. (“**JM Westview**”);
  - g) Jubilee Property Investments Inc. (“**Jubilee**”);
  - h) S&J Property Investors Inc. (“**S&J Property**”);
  - i) SJ East Pharma Inc. (“**SJ East**”);
  - j) St. Mary Cooksville Pharma Inc. (“**St. Mary**”); and
  - k) Toronto Surrey Pharma Inc. (“**Toronto Surrey**”, collectively the “**Debtors**”)
2. Spergel was appointed as consultant to CWB Maximum Financial Inc. (“**CWB**”) pursuant to engagement letters in the case of 4231 Sheppard, Bless Jimmy, JG Windsor, Jimmy’s Group, JM Westview, Jubilee, S&J Property and Toronto Surrey dated August 14, 2020 and in the case of Abu Seifein and SJ East dated September 3, 2020 (collectively the “**Engagement Letters**”). Copies of the Engagement Letters are attached to this Report as **Appendix “1”**.
3. The purpose of this Report is to advise the Court of the Proposed Receiver’s findings with respect to JM Westview, SJ East and St. Mary.
4. The Proposed 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 Second Report for any other purpose.

5. In preparing this Report, the Proposed Receiver has relied upon certain information provided to it by the Debtors. The Proposed 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 Proposed Receiver expresses no opinion or other form of assurance with respect to such information.
6. Unless otherwise stated, all monetary amounts contained in this Second Report are expressed in Canadian dollars.

II. **JM WESTVIEW PHARMA INC.**

7. The Proposed Receiver understands that JM Westview was operating as the Mill Street Pharmacy (the “**Mill Street Pharmacy**”) from the premises located at 15 Mill Street East, Tilbury, ON (the “**JM Westview Premises**”).
8. On or around January 19, 2021, the Proposed Receiver was contacted by McKesson Canada (“**McKesson**”) with respect to the payment of approximately \$32,000 outstanding from Mill Street Pharmacy. McKesson advised the Proposed Receiver that John Gerges (“**Gerges**”) advised McKesson that he is unable to pay the outstanding amount as he anticipates that JM Westview will go into receivership. A copy of the email from McKesson is attached to this Report as **Appendix “2”**.
9. On January 21, 2021, the Proposed Receiver participated in a telephone conversation with Gerges during which conversation Gerges confirmed to the Proposed Receiver that the Mill Street Pharmacy was no longer operating.
10. On January 22, 2021, the Proposed Receiver reviewed the status of Mill Street Pharmacy on the Ontario College of Pharmacist’s (“**OCP**”) website which indicated that Mill Street Pharmacy was entitled to operate. Accordingly, on the same day the Proposed Receiver attended at the JM Westview Premises to conduct an inspection (the “**JM Westview Inspection**”). During the JM Westview Inspection the Proposed Receiver noted the following:
  - a) the Mill Street Pharmacy was closed;

- b) all of the shelves were cleared out; and
- c) a new pharmacy by the name of Sigma Drug Mart (the “**Sigma Pharmacy**”) opened across the street.

Pictures taken during the JM Westview Inspection are attached to this Report as **Appendix “3”**.

11. Given the opening of a new pharmacy across the street, the Proposed Receiver reviewed the status of the Sigma Pharmacy on OCP’s website, which revealed that:
  - a) the Sigma Pharmacy is owned by Sigma Healthcare Inc. The director of Sigma Healthcare Inc. is Samir Shenoda (“**Samir**”), who the Proposed Receiver understands is also involved in another pharmacy owned and operated by Gerges;
  - b) the designated manager / pharmacist at the Sigma Pharmacy is Samir;
  - c) the Sigma Pharmacy received its accreditation number from OCP on January 18, 2021; and
  - d) the Sigma Pharmacy is operating from 2 Dufferin Street, Tilbury, ON (the “**Sigma Premises**”).

Entering the addresses in google maps revealed that the JM Westview Premises and the Sigma Premises were merely 2 minutes’ walk away from each other.

12. In light of the above information, the Proposed Receiver participated in a telephone conversation with Skarlet Baba (“**Skarlet**”), a technician working at the Olde Walkerville Pharmacy over which Spergel is appointed receiver. Skarlet advised the Proposed Receiver that in her conversation with Imelda Castillo (“**Imelda**”), who used to work at the Mill Street Pharmacy as a pharmacist and also works one day a week at the Olde Walkerville Pharmacy. Imelda advised Skarlet that Gerges sold the Mill Street Pharmacy to Samir and that all of the patients and drug inventory was moved over to Sigma Pharmacy recently.
13. The financial statements of JM Westview for the period from June 1, 2019 to May 31, 2020 (the “**JM Westview 2020 Financials**”) indicates that JM Westview’s total

revenue was approximately \$1,339,000. In addition, the sales total report for the period from January 1, 2020 to August 26, 2020 (the “**JM Westview Internal Sales Report**”) extracted from Fillware (the drug dispensing software utilized by the Mill Street Pharmacy) indicated that it generated a total sale of approximately \$775,000 during that period. Copies of the JM Westview 2020 Financials and the JM Westview Internal Sales Report are attached to this Report as **Appendix “4”**.

**III. SJ EAST PHARMA INC.**

12. The Proposed Receiver understands that SJ East was operating as Brighton Global Health (the “**Brighton Pharmacy**”) from the premises located at 12 Elizabeth Street, Brighton, ON (the “**SJ East Premises**”).
13. On January 21, 2021, the Proposed Receiver participated in a telephone conversation with Gerges during which conversation Gerges confirmed to the Consultant that Mill Street Pharmacy is no longer operating.
14. On January 22, 2021, the Proposed Receiver reviewed the status of the Brighton Pharmacy on the OCP’s website which revealed that the Brighton Pharmacy stopped operating on November 25, 2020. Accordingly, on the same day the Proposed Receiver attended at the SJ East Premises to conduct an inspection (the “**SJ East Inspection**”). During the SJ East Inspection the Proposed Receiver noted the following:
  - a) the Brighton Pharmacy was closed; and
  - b) all of the shelves were cleared out.
15. The Proposed Receiver inquired about the Brighton Pharmacy with a nearby pharmacy and was advised that the Brighton Pharmacy had moved across the street to a new pharmacy named Brighton Rx PharmaChoice (the “**New Brighton Pharmacy**”) located at 19 Elizabeth Street, Brighton ON (the “**New Brighton Pharmacy Premises**”).
16. The Proposed Receiver attended at the New Brighton Pharmacy and met with Ann-Marie Creighton (the Front Store Manager) who advised the Consultant that the New Brighton Pharmacy used to be located at the SJ East Premises, however

they started the transition to the New Brighton Pharmacy Premises in October 2020. Pictures taken during the SJ East Inspection are attached to this Report as **Appendix “5”**.

17. A review of the status of the New Brighton Pharmacy on OCP’s website revealed that:
  - a) the New Brighton Pharmacy is owned by Anoop Brighton Pharmacy Inc. The director of Anoop Brighton Pharmacy Inc. is Anoop Gupta, who the Consultant understands was also the designated pharmacist at the Brighton Pharmacy;
  - b) the designated manager / pharmacist at the New Brighton Pharmacy is Anoop Gupta;
  - c) the New Brighton Pharmacy received its accreditation number from OCP on October 7, 2020;
18. A search of Facebook page of the Brighton Pharmacy indicated that the Brighton Pharmacy was operating from the New Brighton Pharmacy Premises. A copy of the screenshot of the Facebook page of the Brighton Pharmacy is attached to this Report as **Appendix “6”**.
19. The financial statements of SJ East for the period from April 1, 2019 to March 31, 2020 (the **“SJ East 2020 Financials”**) indicates that SJ East’s total revenue was approximately \$1,700,000. In addition, the sales total report for the period from January 1, 2020 to September 4, 2020 (the **“SJ East Internal Sales Report”**) extracted from Fillware (the drug dispensing software utilized by the Brighton Pharmacy) indicated that it generated a total sale of approximately \$1,127,000 during that period. Copies of the SJ East 2020 Financials and the SJ East Internal Sales Report are attached to this Report as **Appendix “7”**.

#### **IV. ST. MARY COOKSVILLE PHARMA INC.**

20. Given the findings with respect to JM Westview and SJ East, CWB asked that the Proposed Receiver investigate the status of the Debtors on the OCP site and do site visits where necessary. The Proposed Receiver understands that St. Mary was operating as Cooksville Pharmacy (the **“Cooksville Pharmacy”**) from the

premises located at 3035 Hurontario Street, Mississauga, ON (the “**St. Mary Premises**”).

21. On January 22, 2021, the Proposed Receiver reviewed the status of the Cooksville Pharmacy on the OCP’s website which revealed that the Cooksville Pharmacy stopped operating on November 30, 2020. Accordingly, on January 25, 2021 the Proposed Receiver attended at the St. Mary Premises to conduct an inspection (the “**St. Mary Inspection**”). During the St. Mary Inspection the Proposed Receiver noted the following:

- a) the Cooksville Pharmacy was closed;
- b) all of the shelves were cleared out; and
- c) there was a for lease signed posted on the door.

Picture taken during the St. Mary Inspection is attached to this Report as **Appendix “8”**.

Dated at Toronto this 25<sup>th</sup> day of January, 2021.

**msi Spergel inc.**

in its capacity as the Proposed Receiver  
of the Debtors and not in its personal or  
corporate capacity

Per:



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Mukul Manchanda, CPA, CIRP, LIT  
Partner

# **APPENDIX 6**

Court File No. CV-20-00650853-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**1951584 ONTARIO INC. (formerly DESANTE FINANCIAL SERVICES INC.) and  
CWB MAXIUM FINANCIAL INC.**

Applicants

- and -

**BLESS HUI PHARMA INC., JM WESTVIEW PHARMA INC., MAPLE MEDI PHARMA  
INC., RIVER HILL PHARMACY LTD., SJ EAST PHARMA INC., ST. MARY  
THEOTOKOS PHARMA INC., STONEY CREEK PHARMA INC., TORONTO  
APOTHECARY PHARMA INC., WESTWAY HOLDINGS INC. and OLDE  
WALKERVILLE HOLDINGS INC.**

Respondents

**REPORT OF MSI SPERGEL INC.  
IN ITS CAPACITY AS THE RECEIVER OF  
JM WESTVIEW PHARMA INC., SJ EAST PHARMA INC., BLESS HUI PHARMA INC.,  
MAPLE MEDI PHARMA INC., RIVER HILL PHARMACY LTD., ST. MARY  
THEOTOKOS PHARMA INC., STONEY CREEK PHARMA INC., TORONTO  
APOTHECARY PHARMA INC., WESTWAY HOLDINGS INC. and OLDE  
WALKERVILLE HOLDINGS INC.**

**February 1, 2021**



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2. The Proposed Receiver Report (without appendices)
3. The August 15<sup>th</sup> Email
4. The August 28<sup>th</sup> Email
5. The October 27<sup>th</sup> Email
6. Title Search, Corporate Profile Search and Point in Time Search of JG Tilbury Inc.
7. The Gerges January 26<sup>th</sup> Letter
8. Email exchanges with the Mill Street Landlord
9. McKesson Email and the Statement of Accounts
10. Geo Warehouse Search and Corporate Profile Search of 19 Elizabeth Street
11. Copies of the Receiver's letter to Anoop and the letter from counsel for Anoop to the Receiver
12. Email from OCP
13. The Diep January 26<sup>th</sup> Letter
14. Copies of email exchanges with Diep
15. Copy of email from the counsel for the Elizabeth Street Landlord

**I. APPOINTMENT AND BACKGROUND**

1. This first report (this “**First Report**”) is filed by msi Spergel inc. (“**Spergel**”) in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”) of:
  - a) JM Westview Pharma Inc. (“**JM Westview**”);
  - b) SJ East Pharma Inc. (“**SJ East**”);
  - c) Bless Hui Pharma Inc. (“**Bless Hui**”)
  - d) Maple Medi Pharma Inc. (“**Maple Medi**”);
  - e) River Hill Pharmacy Ltd. (“**River Hill**”);
  - f) St. Mary Theotokos Pharma Inc. (“**Theotokos**”);
  - g) Stoney Creek Pharma Inc. (“**Stoney Creek**”);
  - h) Toronto Apothecary Pharma Inc. (“**Toronto Apothecary**”);
  - i) Westway Holdings Inc. (“**Westway Holdings**”); and
  - j) Olde Walkerville Holdings Inc. (“**Olde Walkerville**”, collectively the “**Debtors**”).
2. JM Westview was a Canadian owned private corporation carrying on business as the Mill Street Pharmacy (the “**Mill Street Pharmacy**”) from the leased premises located at 15 Mill Street East, Tilbury, ON (the “**Mill Street Premises**”). The Receiver understands that the landlord of the Mill Street Premises is 1670016 Ontario Inc. (the “**Mill Street Landlord**”).
3. SJ East was a Canadian owned private corporation carrying on business as Brighton Global Health Pharmacy (the “**Brighton Pharmacy**”) from the leased premises located at 12 Elizabeth Street, Brighton ON (the “**Elizabeth Street Premises**”). The Receiver understands that the landlord of the Brighton Premises is Ming Hao (the “**Elizabeth Street Landlord**”).
4. Spergel was appointed as the Receiver of all of the assets, undertakings and properties of the Debtors (collectively, the “**Property**”) by the Orders of the Honourable Mr. Justice Cavanagh of the Ontario Superior Court of Justice

(Commercial List) (the “**Court**”), in the case of Bless Hui, Maple Medi, River Hill, Theotokos, Stoney Creek, Toronto Apothecary, Westway Holdings and Olde Walkerville made November 25, 2020 and in the case of JM Westview and SJ East made January 26, 2020 (collectively, the “**Receivership Order**”). A copy of the Receivership Order is attached to this First Report as **Appendix “1”**.

5. The Receiver filed a report in its capacity as the Proposed Receiver on January 25, 2021 (the “**Proposed Receiver’s Report**”) reporting its findings with respect to JM Westview and SJ East. Capitalized terms not defined herein shall have the same meaning ascribed to such terms in the Proposed Receiver’s Report. A copy of the Proposed Receiver’s Report (without appendices) is attached to this First Report as **Appendix “2”**.
6. Prior to its appointment as the Receiver, Spergel was appointed as consultant to CWB Maxium Financial Inc. (“**CWB**”) with respect to the Debtors.

## **II. PURPOSE OF THIS FIRST REPORT AND DISCLAIMER**

7. The purpose of this First Report is to advise the Court of the Receiver’s findings with respect to JM Westview and SJ East. This First Report should be read in conjunction with the Proposed Receiver’ Report.
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.
9. In preparing this First Report, the Receiver has relied upon certain information provided to it by the Debtors and or its principals. 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 form of assurance with respect to such information.
10. Unless otherwise stated, all monetary amounts contained in this First Report are expressed in Canadian dollars.

**III. JM WESTVIEW PHARMA INC.**

11. As indicated above, prior to its appointment as Receiver, Spergel was engaged as consultant to CWB with respect to, amongst others JM Westview pursuant to an engagement letter dated August 14, 2020. During the course of the consulting engagement Spergel was provided with certain information by John Gerges (“**Gerges**”) with respect to JM Westview which is discussed in greater detail below.
12. On August 15, 2020 Gerges sent Spergel an email (the “**August 15<sup>th</sup> Email**”) attaching a word document containing a summary of action items for each of the pharmacies including JM Westview. A copy the August 15<sup>th</sup> Email along with the attachment is attached to this First Report as **Appendix “3”**. The summary document states, amongst other things,

*“Mill Street Pharmacy (Tilbury)*

- a. Our Lease has expired and the Landlord has not been agreeable to grant us an extension.*
- b. We have been month to month for a while now.*
- c. To avoid this instability, I acquired a building across the street (2 Dufferin St.) It was a car shop, we have converted it into a professional clinic and pharmacy.*
- d. Earlier this year, we also lost Telus*
- e. Purchaser planning to move to the building across the street and run his own pharmacy and control the building also. Purchaser would be Samir Shenoda.”*

13. The Receiver notes that in the August 15<sup>th</sup> email Gerges advised that he acquired the property located at 2 Dufferin Street, Tilbury ON (the “**Dufferin Premises**”) in order to move the Mill Street Pharmacy to that building and subsequently sell the Mill Street Pharmacy Samir. The Receiver notes that the Sigma Pharmacy (owned and operated by Samir) operates from the Dufferin Premises.
14. On August 28<sup>th</sup>, 2020 Gerges sent Spergel an email (the “**August 28<sup>th</sup> Email**”) attaching an appraisal of the Dufferin Premises and stating:

*“....I hope all is well. Please find appraisal also attached for tilbury as we discussed earlier. This is for Jm Westview pharma (tilbury) where the doctor is not giving us a new lease. As discussed, it is our intention to sell the building and business to Samir, he will then have full control. The other benefit would be a new telus number (Fresh address and Fresh ownership - which is awesome for everyone).*

*The combination of pharmacy and building would produce around \$1,700,000. Subtract the debt with cwb, leaves around \$1.1m. This would go towards the large hit at Olde walkerville. The rest would go on City Centre Pharma as discussed..”*

A copy of the August 28<sup>th</sup> Email is attached to this First Report as **Appendix “4”**.

15. On October 27<sup>th</sup>, 2020 Gerges sent Spergel an email (the **“October 27<sup>th</sup> Email”**) providing a summary of deals he is working on and in the case of JM Westview stated:

*“JM westview: Samir had proposed purchasing the files and moving to obtain new Telus number”*

A copy of the October 27<sup>th</sup> Email is attached to this First Report as **Appendix “5”**.

16. Given the above and the opening of the Sigma Pharmacy by Samir, the Receiver conducted a title search of the Dufferin Premises. The title search indicated that the owner of the Dufferin Premises is JG Tilbury Inc. (**“JG Tilbury”**). A corporate profile search of JG Tilbury indicates that Diep Nguyen was appointed director and officer of JG Tilbury on July 29, 2020. A point in time search of JG Tilbury indicates that Gerges was the director and officer of JG Tilbury from September 6, 2018 to July 29, 2020. Copies of the title search, corporate profile search and point in time search of JG Tilbury are attached to this First Report as **Appendix “6”**.

17. On January 26, 2021, the Receiver sent a letter (the **“Gerges January 26<sup>th</sup> Letter”**) to Gerges asking him to provide books and records of JM Westview including the computer containing the drug dispensing software and asked him to advise of the following:

- a) When did the Mill Street Pharmacy close?
- b) What happened to the inventory of drugs on hand at the time of closing?
- c) What happened to the patient list / script count available to the Mill Street Pharmacy at the time of closing?

With the exception of providing the contact information of the Mill Street Landlord, Gerges is yet to provide remainder of the information requested in the Gerges January 26<sup>th</sup> Letter. A copy of the Gerges January 26<sup>th</sup> Letter is attached to this First Report as **Appendix “7”**.

18. On January 26, 2021, the Receiver participated in a telephone conversation with Imelda (the designated manager / pharmacist of the Mill Street Pharmacy). Imelda advised that her last day at the Mill Street Pharmacy was January 15, 2021 and up until that day the Mill Street Pharmacy was fully stocked and operational. Imelda advised the Receiver that she does not have any direct knowledge about moving of the drug inventory and the patient list of the Mill Street Pharmacy to the Sigma Pharmacy.
19. In addition, on January 29, 2021 the Receiver sent an email to the Mill Street Landlord asking for information with respect to JM Westview vacating the Mill Street Premises and the content left inside the Mill Street Premises. On February 1, 2021, the Receiver received an email from the Mill Street Landlord advising that:
  - a) there is nothing left inside the Mill Street Premises including no books and records and computers;
  - b) the Mill Street Premises lease expired 2 years ago and the Mill Street Pharmacy was operating on month to month basis. The Mill Street Pharmacy required one month notice to vacate. In early December a letter was sent to the Mill Street Pharmacy asking to vacate the Mill Street Premises by January 31, 2021;
  - c) the Mill Street Pharmacy vacated the Mill Street Premises on or around January 15<sup>th</sup>, 2021 without notice; and
  - d) the December rent cheque did not clear.

Copies of the email exchanges with the Mill Street Landlord are attached to this First Report as **Appendix "8"**.

20. On February 1, 2021, the Receiver received an email from McKesson (the "**McKesson Email**") providing a statement of account related to the Mill Street Pharmacy and the Brighton Pharmacy. The statement of account related to the Mill Street Pharmacy indicated an outstanding balance to McKesson of \$102,995.31. McKesson advised that the last shipment to the Mill Street Pharmacy was sent in December 2020. A copy of the McKesson Email along with the statement of accounts are attached to this First Report as **Appendix "9"**.

**IV. SJ EAST PHARMA INC.**

21. As indicated in this First report, prior to its appointment as Receiver, Spergel was engaged as consultant to CWB with respect to, amongst others, SJ East pursuant to an engagement letter dated September 3, 2020. During the course of the consulting engagement Spergel was provided with certain information by Gerges with respect to SJ East which is discussed in greater detail below.
22. In the August 15<sup>th</sup> Email containing the word document with the summary of action items for each of the pharmacies including SJ East, Gerges stated,
- “Brighton Pharmacy
- a. Purchased this store with Diep Nguyen June 2017
  - b. The only issue we got the telus notice In March, since this is a big store it was a large loss for us.
  - c. Purchaser has negotiated to purchase a building across the street, this is additional to the construction costs as well.”
23. In the October 27<sup>th</sup> Email, Gerges in respect of SJ East stated:
- “Brighton: Anoop had proposed [to] purchase and moving to obtain new Telus number. Anoop trying to obtain alternative financing.”*
24. Given the above and the opening of the New Brighton Pharmacy by Anoop, the Receiver conducted a Geo Warehouse search of the New Brighton Pharmacy Premises. The Geo Warehouse indicated that the owner of the New Brighton Pharmacy Premises is 19 Elizabeth Street Inc. (“**19 Elizabeth**”) and that 19 Elizabeth purchased the New Brighton Pharmacy Premises on August 24, 2020. A corporate profile search of 19 Elizabeth indicates that Anoop Gupta is the director and officer of 19 Elizabeth. Copies of the Geo Warehouse search and corporate profile search of 19 Elizabeth are attached to this First Report as **Appendix “10”**.
25. On January 28, 2021, the Receiver sent a letter to Anoop asking him to advise, amongst other things, of the following:
- a) When did the Mill Street Pharmacy close?
  - b) What happened to the inventory of drugs on hand at the time of closing?
  - c) What happened to the patient list / script count available to the Mill Street Pharmacy at the time of closing?



On January 30, 2021, the Receiver received a letter from counsel for Anoop advising that Anoop resigned from his employment with the Brighton Pharmacy in September 2020 and never had access to financial or other confidential information related to the Brighton Pharmacy. Copies of the Receiver's letter to Anoop and the letter from counsel for Anoop to the Receiver are attached to this First Report as **Appendix "11"**.

26. The Receiver contacted the OCP to request information with respect to the designated manager of the Brighton Pharmacy and was advised by OCP that Anoop was the designated manager of the Brighton Pharmacy from July 24, 2017 to September 18, 2020 and Diep was the designated manager from September 21, 2020 to November 25, 2020. A copy of the email from OCP in this respect is attached to this First Report as **Appendix "12"**.
27. On January 26, 2021, the Receiver sent a letter (the "**Diep January 26<sup>th</sup> Letter**") to Diep Nguyen ("**Diep**"), the owner of the Brighton Pharmacy, with a copy to Gerges asking him to provide books and records of SJ East including the computer containing the drug dispensing software and asked him to advise of the following:
- a) When did the Brighton Pharmacy close?
  - b) What happened to the inventory of drugs on hand at the time of closing?
  - c) What happened to the patient list / script count available to the Brighton Pharmacy at the time of closing?

A copy of the Diep January 26<sup>th</sup> Letter is attached to this First Report as **Appendix "13"**.

28. Gerges provided the contact information of the Elizabeth Street Landlord. On January 29, 2021 Diep sent an email to the Receiver advising that he does not have the key to the Elizabeth Street Premises however he is willing to arrange for a locksmith to gain access. On the same day the Receiver sent an email to Diep asking him to confirm if he is still in possession of the Elizabeth Street Premises and asked him to provide an answer to the questions outlined in paragraph 25 above on an expedited basis. As at the date of this First Report, the Receiver is

yet to receive the information requested in the Diep January 26<sup>th</sup> Letter. Copies of the email exchanges with Diep is attached to this First Report as **Appendix “14”**.

29. In addition, on January 29, 2021 the Receiver received an email from the counsel for the Elizabeth Street Landlord advising that:

- a) the Brighton Pharmacy vacated the Elizabeth Street Premises in or around mid-November 2020;
- b) the Brighton Pharmacy did not provide any prior notice to the Elizabeth Street Landlord of its intention to vacate and that the Elizabeth Street Landlord found out after the premises was already vacated; and
- c) the Elizabeth Street Landlord will provide access to the premises to the Receiver after taking possession of same on February 1, 2021.

A copy of the email from the counsel for the Elizabeth Street Landlord is attached to this First Report as **Appendix “15”**.

30. The McKesson Email containing a statement of account related to the Brighton Pharmacy indicated a minimal outstanding balance to McKesson. McKesson advised that the last shipment to the Brighton Pharmacy was sent in November 2020.

Dated at Toronto this 1<sup>st</sup> day of February, 2021.

**msi Spergel inc.**

in its capacity as the Court-appointed Receiver  
of the Debtors and not in its personal or  
corporate capacity

Per:



---

Mukul Manchanda, CPA, CIRP, LIT  
Partner

# **APPENDIX 7**



4231 Sheppard Ave E (Unit C-1), Scarborough

Strategic Advisory and Disposition Proposal

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# Executive Summary



## Key Objectives

- Maximize value while minimizing transaction risk for Unit C1 – 4231 Sheppard Avenue East, Scarborough



## Market Overview

- ▲ Strong transaction volume in the 2<sup>nd</sup> half of 2020 in the GTA – 4th quarter sales were up 64% in the GTA quarter over quarter
- ▲ Private investors remained very active for smaller transaction size < \$10M
- ▲ Abundance of capital on the sidelines waiting to be deployed
- ▲ Attractive debt financing is available in the marketplace



## Market Value

**Reconciled Estimate of Market Value:**

[REDACTED]

**Suggested Listing Price:**

[REDACTED]



## Experienced Team

- Tried and tested multi-discipline model to provide first class advisory and disposition service:
  - Our Collaborative approach to the industry is truly unique and engages all of our resources and entire salesforce on this important assignment



## Fee Proposal

- Five Percent (5.0%) of Sale Price;
- Avison Young to pay MLS/Co-operating Broker's fee (minimum of 2.25%)

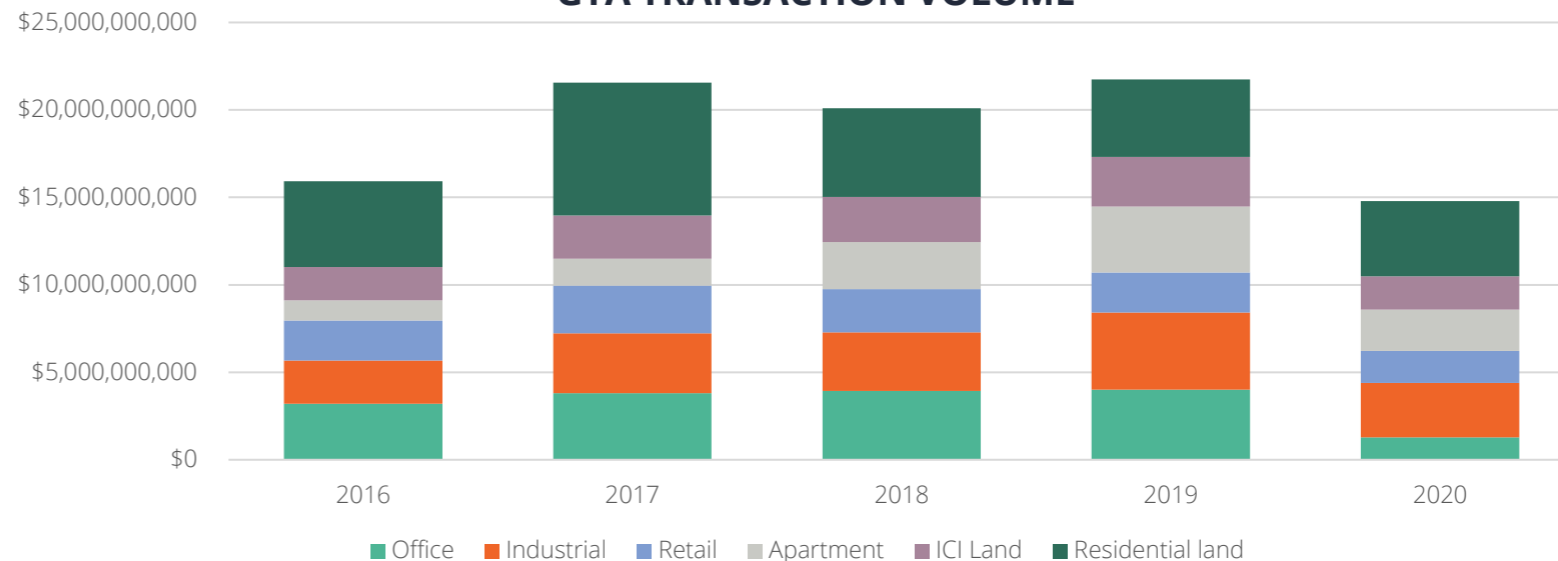
# Market Overview

# Investment & Debt Market Overview

## Investment Market Overview

- Although 2020 started off slow, transaction volume picked up in the second half of the year
- Private investors remained very active for transactions under \$10Mln

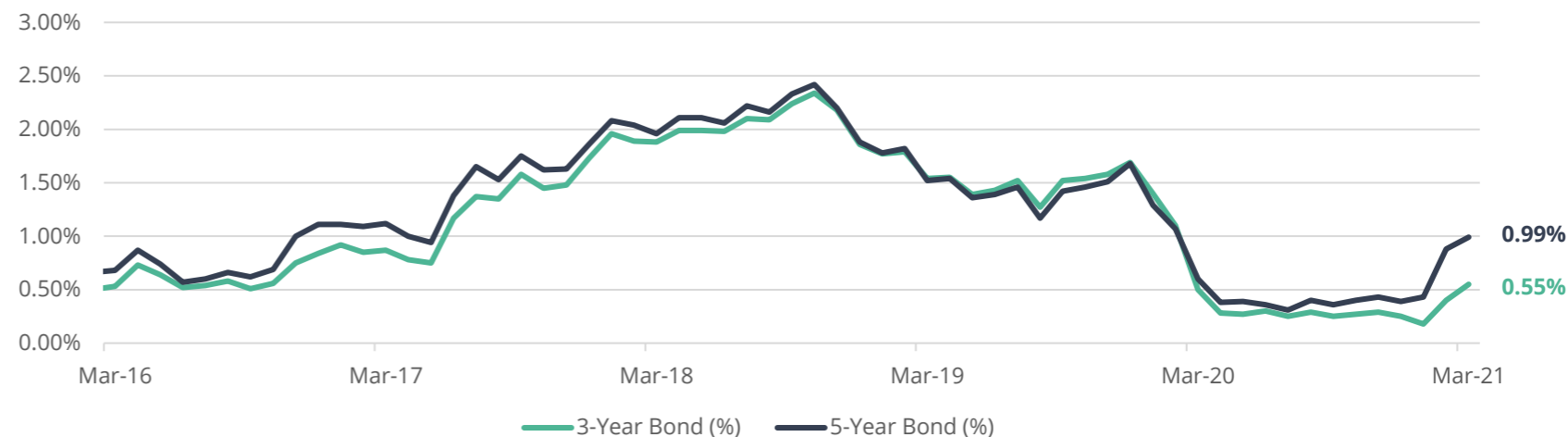
**GTA TRANSACTION VOLUME**



## Canadian Debt Capital Markets

- Historic low financing costs despite recent climbs in bond yields
- Strong debt options with competitive spreads

**GOVERNMENT OF CANADA BENCHMARK BOND YIELDS**





## Completed Transactions

Address	Unit Number	Location	Sale Date	Price	Size (sf)	Price psf	Vendor	Comments
3262 Midland Avenue East	111	Scarborough	Dec-20	\$520,000	888	\$586	2418131 Ontario Inc	Commercial retail unit, recently renovated. On market for 127 days before it sold.
4385 Sheppard Avenue East	4	Scarborough	Nov-20	\$332,000	1,050	\$316	2013973 Ontario Limited	A Commercial retail unit recently renovated; at the time of sale the unit was occupied by a health & beauty tenant. Unit had a full basement.
80 Nashdene Road	199	Scarborough	Oct-20	\$245,000	960	\$255	360 Outsourcing Inc	Ground floor commercial unit in a commercial plaza
4168 Finch Avenue East	G11	Scarborough	Jul-20	\$137,500	443	\$310	Christine Lai-Ming Lam & Simon Sai-Ming Lam	A commercial retail unit on the ground floor of First Commercial Place. It was on the market 16 days before it sold.
4438 Sheppard Avenue East	170	Scarborough	May-20	\$125,000	660	\$189	Hai Ling Huang	A ground floor commercial retail unit. Unit was on the market for 167 days before it sold and was vacant at the time of the sale.
4400 Sheppard Avneue East	5	Scarborough	Jan-20	\$185,000	671	\$276	Shellina Jamal & Zahur Jamal	A ground floor commercial retail unit on the ground floor in a commercial plaza. The unit was on the market for 71 days and was vacant at the time of sale
<b>Average</b>				<b>\$257,417</b>	<b>779</b>	<b>\$322</b>		

## Currently Being Marketed

Address	Unit Number	Location	Size (sf)	Listed Price	Listed Price psf	Vendor	Comments
1 Reidmount Avenue	101	Scarborough	949	\$299,990	\$316	2403587 Ontario Inc	Commercial/Retail unit, close to the new GO station
8 Glen Watford Drive	M10	Scarborough	263	\$158,000	\$601	O/A Lucky Express Services	Commercial condo in Dynasty Center Plaza
4438 Sheppard Avenue East	207	Scarborough	402	\$150,888	\$375	Roderick Franco & 10928704 Canada Inc	Commercial/Retail unit on the 2nd floor of a shopping centre
4002 Sheppard Avenue East	102A	Scarborough	668	\$478,000	\$716	Chi-Hung Le and Su Chenh Deng	Currently occupied. This commercial retail condo unit is on the first floor with a corner position
4675 Steeles Ave East	10,11,12	Scarborough	849	\$450,000	\$530	So Bill Holdings Inc	Two of the units are currently vacant and one is occupied at \$1,200/month
2351 Kennedy Road	119	Scarborough	991	\$449,000	\$453	Yi Mei Liu	Currently vacant, this unit has 526 sf of office space and 465 sf of retail space

# Leasing Comparables

4231 Sheppard Avenue East

4915 Steeles Avenue East

421 Nugget Avenue 8

4651 Sheppard Avenue East 104 4053 Sheppard Avenue East



Unit Size	960	1,208	10,564	9,073	8,184
Leased Date	-	Aug-20	Nov-20	Sept-20	Aug-20
Distance to Subject Property	-	5km	4km	2km	1km
Year 1 Leased Rate (net psf)	-	\$23.00	\$23.35	\$18.00	\$19.40
Additional Rent (psf)	-	\$17.00	\$7.03	\$13.50	\$11.50
Gross Rent (psf)		\$30.00	\$30.38	\$31.50	\$30.90

## Currently Being Marketed

Address	Unit Number	Location	Size (sf)	Listed Price (Net)	Additional Rent (psf)	Seller	Comments
4500 Sheppard Avenue East	102	Scarborough	1,800	\$12.00	\$9.68	Dundas Real Estate Investments	Commercial/Retail unit within a complex
4820 Sheppard Avenue East	8	Scarborough	760	\$13.00	\$20.16	4800 Sheppard Holdings Inc	Commercial Unit in a complex, close to Highway 401
19 Milliken Boulevard	5C2	Scarborough	304	\$15.00	\$24.18	Trojan Gate Developments C/O Kalli Management Limited	Commercial unit within 'Milliken Square'
3320 Midland Avenue	118	Scarborough	520	\$18.00	\$12.50	Hartwell Management	Commercial unit in Silverstar Centre Plaza
2245 Kennedy Road East	5	Scarborough	1,608	\$19.00	\$15.00	Fimax Management Inc	Currently occupied by a health/beauty related tenant, this commercial unit is located in a small commercial plaza.

# Property Analysis & Valuation

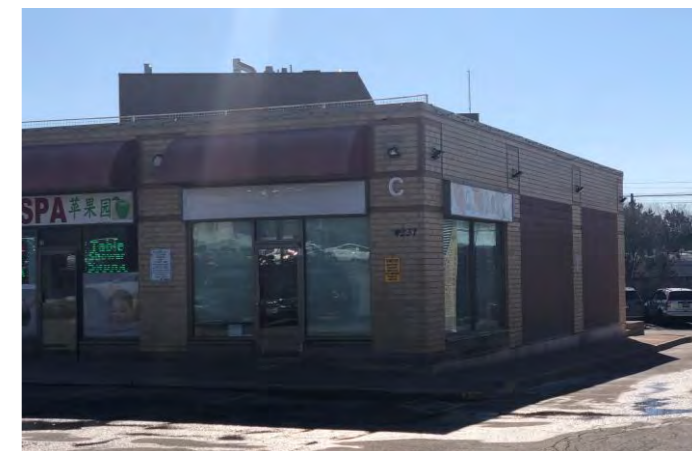
# Property Overview



## Property Highlights

- △ Strategically located near the intersection of Sheppard Ave East and Midland Ave
- △ Established commercial/retail location
- △ Abundance of financing options for users/investors
- ▽ Building is at the rear of the site - no direct exposure along Sheppard Ave E nor along Midland Ave.

4231 Sheppard Avenue East - Unit C1	
Unit Area	960 sf
Year Built	1994
Storeys	Single
Occupancy Rate	100%
Number of Tenants	1
Remaining Lease Term	2+ years
In-Place Rent	
Official Plan	Mixed Use Areas
Zoning	Commercial Residential



## Highlights

- Avison Young has derived the market value of 4231 Sheppard Avenue East Unit C1 based on two valuation methods:

### 1. User-Occupier Value: Direct Comparison

- Based on the analysis on comparable properties recently sold and recent listings and after adjusting for positive and negative factors

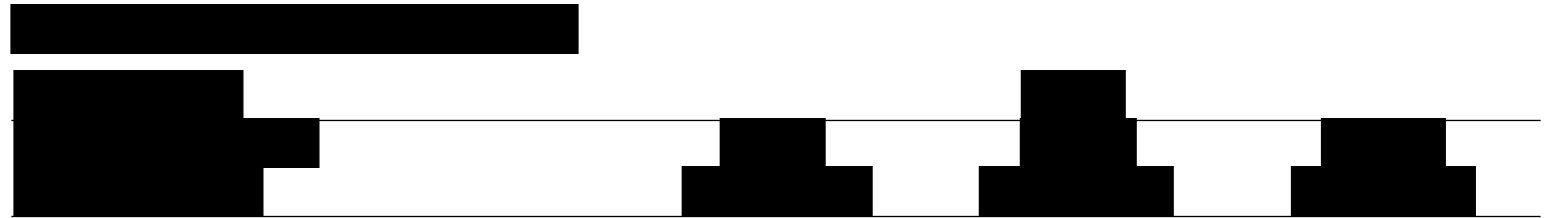
### 2. Investment value: Direct Capitalization

- We believe the cap rate range would be between 5%-6% with the existing lease in-place
- This is how a typical investor, looking to derive yield, would analyze the opportunity

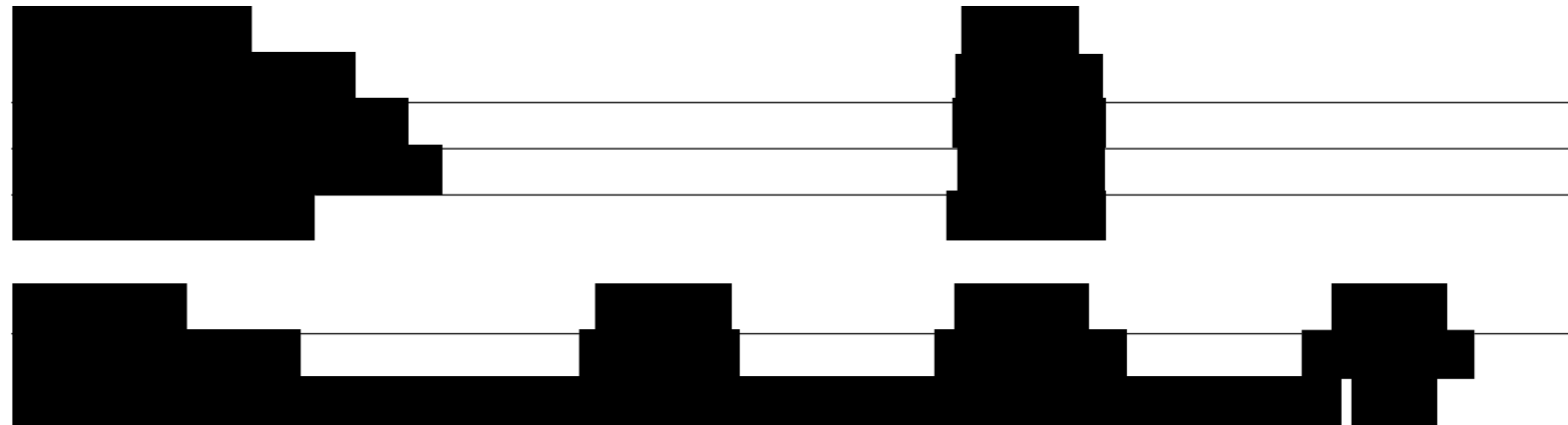
### Final Estimate of Market Value & Recommended Listing Price

### Critical Assumptions:

- We have assumed the existing lease is valid and in full force and effect, and “arm’s length” ;
- We have not been provided with any financial information regarding the condominium corporation, reserve fund status, etc., and have assumed there are no extraordinary capital costs or condo fees in place.
- We have assumed there is no deeded parking for the unit, and all parking is considered “common elements”



### Valuation – Direct Capitalization



# Marketing Considerations

# Marketing Strategy: Broad Marketing Process

## Avison Young Tried And Tested Marketing Campaign



### Marketing Process

- Broad Marketing
- Maximum exposure to 6,000 private and institutional investors in AY Database
- MLS Listing - exposes property to over 55,000 agents representing potential buyers
- Avison Young website (70,000-80,000 unique visitors per month)
- Unit/window signage (if deemed appropriate) to capture local owners and “drive by” traffic



### Pricing Format

- We believe the fair market value for the property, in its current state, to be in the range [REDACTED]
- [REDACTED]
- We want as many groups investing time and money underwriting this opportunity, foster emotional attachment to the property/unit, and submit offers
- [REDACTED] If desired, a date after which offers will be entertained can be considered simple to “corral” offers to a common timeline



### Maximize Pricing and Minimize Transaction Risk

- AY will leverage our extensive experience with all the buyer groups to extract the highest value
- Push for all bidders to conduct as much pre-offer due diligence as possible
- Present all information upfront and minimize transaction risk and potential for “re-trade”
- Qualify all potential purchasers (equity source, track record, financing requirements, etc.)
- AY can provide debt options to buyers to facilitate smooth closing and top pricing
- AY will fully document the entire marketing process to ensure the Receiver is fully informed and the entire marketing and sale process is fully transparent

# Surrounding Ownership Map



	Address	Recorded Owner	Lot Size (acres)	Lot Size (sf)
	4231 Sheppard Avenue East			
1	4235 Sheppard Avenue East	4235 Sheppard Avenue E. LTD	0.88	38,448
2	4245 Sheppard Avenue East	875564 Ontario Inc	0.96	41,667
3	4271 Sheppard Avenue East	VLK International Canada Inc	1.85	80,610
4	N/A	Freedent Sheppard Inc	4.81	209,584
5	4256 Sheppard Avenue East	National Trust Company Limited	0.31	13,487
6	4252 Sheppard Avenue East	Numerous Individuals	0.31	13,476
7	4246 Sheppard Avenue East	2734743 Ontario Ltd	0.18	8,051
8	4240 Sheppard Avenue East	1837206 Ontario Inc	0.25	10,968
9	8 Glen Watford Drive	Condos – Individually Owned	-	-
10	4220 Sheppard Avenue East	ONT SNB Inc	0.65	28,276
11	2569 Midland Avenue	Trustees of Knox Church	2.91	126,626
12	1-19 Glen Watford Drive	5030619 Ontario Inc	0.87	38,158
13	23 Glen Watford Drive	4280 Sheppard Limited	2.30	100,147
14	25 Glen Watford Drive	KBIJ Corporation	1.73	75,315



# Marketing Strategy: Disposition Timeline and Major Milestones

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15+
<b>Avison Young Underwriting</b>	1-2 weeks														
<b>Third Party Reports (if required)</b>	2 - 4 weeks														
<b>Broad Marketing</b>			3-4 weeks												
<b>Offers</b>							2 weeks								
<b>Due Diligence (if applicable)</b>									2 - 6* weeks (* if financing is required)						
<b>Closing</b>															4 - 8 Weeks

- Avison Young will leverage the competitive bid process and thorough pre-marketing due diligence to shorten due diligence period
- Typical closing will be within 4-8 weeks of waiving of any Buyer conditions and subject to any required Court approvals.

# Marketing Strategy: Sample Marketing Materials


## Brochures



## Offering Memorandum




## Email Marketing



**For Sale**

4231 Sheppard Ave E (Unit C-1)  
Toronto, ON



**Property Highlights**

- 960 sf commercial condo unit
- Strategically located near the intersection of Sheppard Ave East and Midland Ave
- Situated in an established commercial/retail location
- Near public transit and Highway 401


[Investment Summary](#)

[Confidentiality Agreement](#)


For more information please contact:

**Kelly Avison, AACI**  
Principal, Broker  
416 673 4030  
kelly.avison@avisonyoung.com

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## Newspaper Advertising



**For Sale**

4231 Sheppard Ave E (Unit C-1), Toronto, ON



- 960 sf commercial condo unit
- Strategically located near the intersection of Sheppard Ave East and Midland Ave
- Situated in an established commercial/retail location
- Near public transit and Highway 401

**Kelly Avison, AACI\***  
Principal  
416.673.4030  
kelly.avison@avisonyoung.com

[avisonyoung.ca](#)

\*Sales Representative \*Broker  
Avison Young Commercial Real Estate (Ontario) Inc., Brokerage



## Marketing Video Sample



# Closing Remarks

# Why Avison Young?

## Value-add Solutions, Team Focus and Excellent Track Record



### Solution Oriented Advisory

- Multi-disciplinary and collaborative approach is the sure way to create full value
- Creative solutions add value to increase marketability and value
- Reliable “safe pair of hands”



### Strong Relationships

- Team is created through AY Capital Markets and AY commercial/retail experts
- The team will work from day 1 to create value and ensure the best outcome
- Our collaborative team approach is unique in the industry, and ensures all AY service lines are utilized and engages our entire sales force to maximize market penetration/exposure

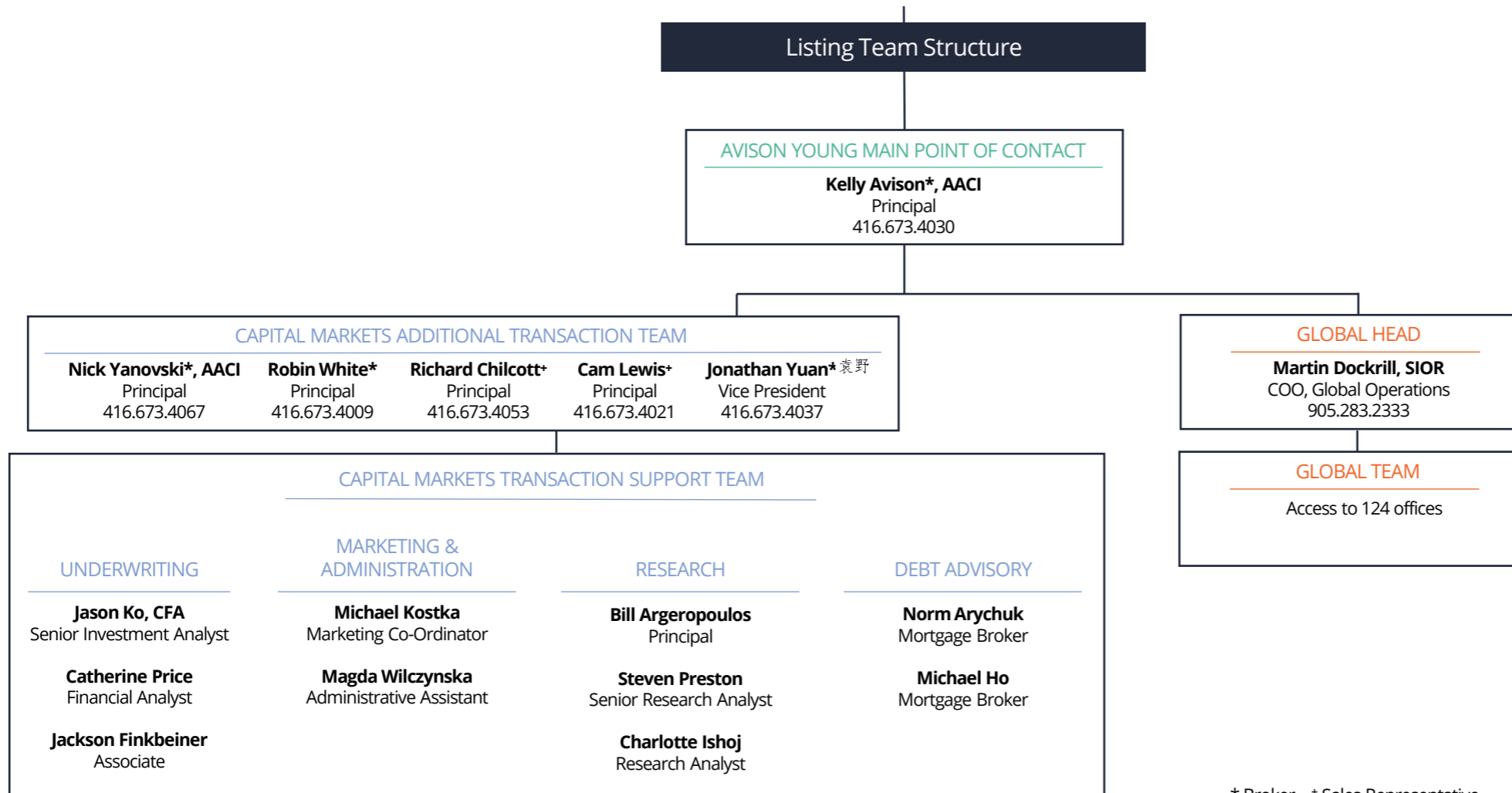


### Track Record

- Our Team has repeatedly demonstrated our ability to drive pricing and close transactions through creative solutions
- Our experience and reputation in the marketplace ensures a professionally executed and fully transparent marketing and sale process, with successful closings upon the best possible business terms



## Designated Points of Contact



\* Broker + Sales Representative

# Appendices

# Appendix | Your Sales, Capital Markets and Advisory Team

## Team Leader



### KELLY AVISON, AACI

Principal, Broker, Capital Markets Group  
 P: 416.673.4030  
 E: kelly.avison@avisonyoung.com  
 30 Years Experience

- Extensive experience in the acquisition and disposition of investment properties of all asset classes
- Sold and advised upon several billions' worth of transactions throughout Ontario and Canada
- Leads Avison Young's Distressed Asset Group (e.g., Power of Sale, Court-Mandated Sales, Receivership Sales, etc.), and has extensive sales and consulting experience in various "work out" and partnership dispute transactions
- Clients include: Morguard, HSBC Bank Canada, Royal Bank, Davpart, Minto, First Capital, Riocan REIT, Standard Life, Bentall Kennedy, Manulife, BMO, PWC, etc.



### ALI FIEDER

Sales Representative, Vice President, Retail  
 P: 647.252.4151  
 E: ali.fieder@avisonyoung.com

- Ali specializes in retail leasing, sales and consulting. Acting on behalf of Tenants and Landlords, Ali works on transactions across North America
- Ali services the Ontario market when it comes to agency leasing and has worked with a variety of property categories including big box retail, strip plazas, mixed use developments, new construction, small urban retail storefronts and more
- Prior to joining Avison Young in 2014, Ali was a Sales Representative with RKF



### JESSE FRAGALE, MBA, LLM

Sales Representative, Vice President, Office Leasing  
 P: 416.895.1422  
 E: jesse.fragale@avisonyoung.com

- Jesse Fragale specializes in both office leasing and investment transactions across the Greater Toronto Area
- Jesse represents clients in various sectors including tech, start-up and not-for-profit to name a few
- Jesse's goal is help his client find flexible real estate solutions for both their short and long term needs
- In addition to his MBA and LLM, Jesse holds a leadership and negotiation certificate from Harvard University



### ERIC BERARD

Sales Representative, Vice President, Retail  
 P: 647.788.4073  
 E: eric.berard@avisonyoung.com

- Eric negotiates creatively structured lease arrangements, ensuring that his clients are strategically positioned within the competitive landscape, both operationally and financially
- Eric's expertise is aligning a Tenant's identity and a Landlord's strategic vision for a property, is backed by a comprehensive understanding of the Ontario retail market and a thorough analysis of key metrics such neighborhood demographics and property values
- Eric is a Senior Associate at Avison Young and has worked with the Toronto Retail Services Group since joining the company in 2013

# Appendix | Your Sales, Capital Markets and Advisory Team

## Capital Markets Support Team



**JASON KO, CFA**

Senior Investment Analyst  
P: 416.673.4060  
E: jason.ko@avisonyoung.com

- Leads the AY underwriting team
- Holds the highly regarded Chartered Financial Analyst designation
- Prior to joining Avison Young, Jason had a series of Co-op placements with Moody's Investors Service, Federal Economic Development Agency, Blackhawk Network and ClevrU.



**MICHAEL KOSTKA**

Marketing Coordinator  
P: 647.252.4094  
E: michael.kostka@avisonyoung.com

- Has a background in graphic design and print, having studied Graphic Communications Management at Ryerson University.
- Assists in the design and publication of various marketing materials including brochures, proposals and offering memorandum.



**CATHERINE PRICE**

Financial Analyst  
P: 647.252.4154  
E: catherine.price@avisonyoung.com

- Supports the Capital Markets team with underwriting and market research due diligence
- Graduated from Dalhousie University with a Bachelor of Commerce, major in Finance
- Prior to working at Avison Young, Catherine worked at Pricewaterhouse Coopers in the assurance department



**JACKSON FINKBEINER**

Associate  
P: 647.252.4095  
E: jackson.finkbeiner@avisonyoung.com

- Supports the Capital Markets team with underwriting and market research due diligence
- Graduated from Queen's University with a Bachelor of Arts, major in Economics
- Prior to working at Avison Young, Jackson had internships with Oxford Properties Group and CBRE



## Appendix | Avison Young Distressed Sales Experience



Sun Pac Blvd Land, Brampton

\$6,025,000

Vendor: Msi SPERGEL Inc., as Court appointed Receiver

Avison Young was retained by Msi SPERGEL Inc. (Court-appointed Receiver) to market and sell the land on Sun Pac Boulevard in Brampton. The property is a 3 acre piece of undeveloped commercial land. The marketing process resulted in 4 offers and a sale price above asking.



168 Old Kennedy Road, Markham

\$7,550,000

Vendor: RSM Canada, as Court appointed Receiver

Avison Young was retained by RSM Canada as Court appointed Receiver to market and sell the land at 168 Old Kennedy Road in Markham. The property is a 1.5 acre piece of undeveloped, mixed use land. The marketing process resulted in 7 offers and the successful sale of the property.



57 Matthew Street, Marmora

\$1,400,000

Vendor: Msi SPERGEL Inc., as Court appointed Receiver

Avison Young was retained by Msi SPERGEL Inc. via its receiver to market and sell 57 Matthew Street in Marmora, Ontario. The property is a 2,300 sf gas station and convenience store on a 1.35 acre site. The marketing process resulted in 4 offers and the successful sale of the property.



237A Advance Boulevard, Brampton

Firm, subject to Court Approval

Vendor: A. Farber & Partners Inc. as Court appointed Receiver

Avison Young was retained by A. Farber & Partners Inc. as Court appointed Receiver to market and sell 237A Advance Boulevard in Brampton, Ontario. The property is a 21,000 sf industrial building on 1.1 acre site. The marketing process has resulted in a firm offer which is subject to court approval.



581 Wellington Street West, Toronto

Vendor: Superior Court of Justice

Avison Young was retained by RSM Canada Limited to market and sell a 6,994 sf mixed-use property under partial renovation. Property garnered much interest and several offers were received, culminating in a fully unconditional offer being negotiated in a final round of bidding. Transaction closed in late 2019.

## Appendix | Avison Young Distressed Sales Experience

---



92 Davidson Street, Barrie  
\$3,275,000

Vendor: Superior Court of Justice

Avison Young was retained by A. Farber & Partners Inc. via its receiver to market and sell 92 Davidson Street, located in Barrie, Ontario. The free standing industrial building and surplus land. Avison Young received multiple offers for the property, and successfully sold the property five months after going to market.

---



1450 Gerrard Street East, Toronto  
\$2,305,000

Vendor: RBC (Power of Sale)

Avison Young was retained by RBC (under power of sale) to market and sell 1450 Gerrard Street East in Toronto, Ontario. Multiple offers were generated by our marketing efforts, and an unconditional offer above our asking price was completed.

---



38 Metropolitan Road, Toronto  
\$7,200,000

Vendor: RBC (Power of Sale)

Avison Young was retained by RBC (under power of sale) to market and sell 38 Metropolitan Rd in Toronto, Ontario. This was an extremely challenging assignment given part of the building was previously used as a commercial marijuana grow-op that caused extensive damage to the building. Our extensive experience and multifaceted marketing approach produced exceptional results including 17 offers.

---



25 Laskay Mills Drive  
\$5,350,000

Vendor: KSV Advisory Inc. (Court-appointed Receiver)

Avison Young was retained by KSV (Receiver) to market and sell 25 Laskay Mills Drive, a 75 acre site in King City, Ontario - a long-term potential redevelopment site that also contained a large, custom-designed 1970's vintage home, old farmhouse, and barns. The buyer intended to develop their own private family compound on the site. Our marketing process resulted in multiple offers, including the successful, unconditional offer.

---

## Appendix | Avison Young Distressed Sales Experience

---



2454 Bayview Avenue, Toronto

\$7,900,000

Vendor: Superior Court of Justice

Members of the Avison Young Capital Markets Team were retained by the Superior Court of Justice as a receiver to market and sell 2454 Bayview Avenue. The school was marketed unpriced with a specific bid date scheduled 4 weeks after taking the property to market. Avison Young received multiple offers and had a second round of bids. The property was successfully sold within the price expectations.

---



1491 Wilson Avenue, 143-145 Arlington Avenue & 26 Gulliver Road, Toronto

\$20,378,000 (Total Price)

Vendor: Private Family/Receiver

Members of the Avison Young Capital Markets Team retained by a receiver on behalf of a private family to market and sell three low rise apartment buildings. The properties were marketed unpriced as a portfolio and individually. The properties were marketed for 4 weeks with a set bid date. The three properties were sold to individual buyers within the pricing expectations.

---



6 Marconi Court, Vaughan

\$2,990,000

Vendor: Bank of Montreal (Power of Sale)

Avison Young was retained by Rosen Goldberg Inc. as a receiver to market and sell 6 Marconi Court located in Caledon Ontario. The free standing industrial property was marketed priced with no specific bid date. 6 Marconi Court received multiple bids and was sold (firm) less than five months after going to market.

---



Blue Mountain Development Lands, Town of Blue Mountains

\$2,200,000

Vendor: HSBC (Power of Sale)

Avison Young was retained by HSBC via its receiver to market and sell 23 acres of land located in The Blue Mountains Ontario. The residential development land was originally part of "The Ridge Estates" subdivision and was comprised of 29 single lots. Avison Young received multiple offers for the property, and successfully sold the property to a local development company.

---

# Appendix | Avison Young Distressed Sales Experience

## RSM Portfolio

Members of the Avison Young Capital Markets Team were retained by the RSM Canada (court-appointed receiver) to market and sell five gas stations and/or car wash facilities around Ontario. The properties were marketed as a portfolio and individually. The properties were marketed for at least 4-5 weeks with a set bid date. All five of the properties were eventually sold to individual buyers, including some being unconditional offers.

**SOLD & CLOSED**

5462 Dundas Street West, Toronto  
\$3,700,000  
Vendor: Superior Court of Justice  
Single storey car wash facility.

**SOLD & CLOSED**

5223 Dundas Street, Burlington  
\$2,500,000  
Vendor: Superior Court of Justice  
Single storey car wash facility in state of partial construction.

**SOLD & CLOSED**

591 & 595 Goderich Street, & 618 Gustavus Street, Port Elgin  
\$2,500,000  
Vendor: Superior Court of Justice  
Vacant former Ultramar gas station, freestanding Tim Hortons pad, and 2-storey building (including 3-bedroom apartment).

**SOLD & CLOSED**

633 Main Street West, Port Colborne  
\$850,000  
Vendor: Superior Court of Justice  
Single storey car wash facility

**SOLD & CLOSED**

274 Bayfield Road, Goderich  
\$1,300,000  
Vendor: Superior Court of Justice  
Vacant former Ultramar gas station and automated car wash facility.

## Company Profile

Avison Young creates economic, social and environmental value as a global real estate advisor, powered by people.

At Avison Young, we believe in creating positive impact wherever we go.

There is a vital role for commercial real estate to create healthy, productive workplaces for employees, cities that are centres of prosperity for its citizens, and built spaces and places that create a net benefit to the economy, the environment and the community.

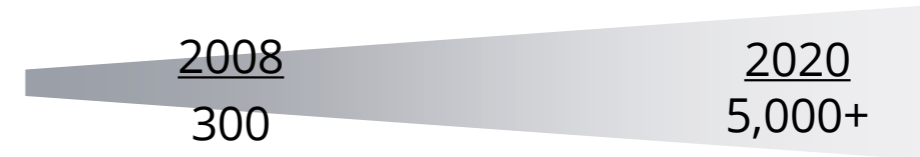
Our nimble, agile team has global insight, local market expertise and access to some of the smartest technology in the commercial real estate industry – all at the ready to work on creating your competitive advantage. As a private company, you will collaborate with an empowered partner who is invested in your success as much as you are.

## Current Locations



## Growth

### Real Estate Professionals



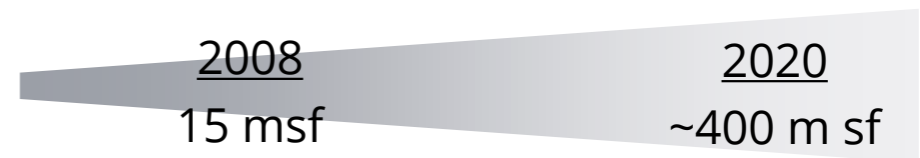
Includes licensed brokers, property managers, financial analysts, research professionals and marketing specialists

### Offices



Avison has offices across North America, Europe and Asia

### Property Under Management



Full service leasing and management operation, including financial reporting, cash flow management and operations management

## CAPITAL MARKETS GROUP

The Avison Young Canadian Capital Markets Group works in partnership with our clients to provide high-quality, integrated services that support their strategic and financial objectives.

Our team includes senior professionals across Canada, working seamlessly to deliver real estate solutions for our clients. Avison Young has been a leader in directing Canadian and international capital into Canadian, European and U.S. real estate investments.

Today we provide a full range of real estate services to local, regional, national and international clients. Avison Young has a proven track record of exceeding client expectations.

*We are always thinking about how to best help you optimize your real estate portfolio, regardless of complexity.*

- As trusted advisors, our senior professionals leverage their national and global experience, networks and market intelligence to identify and secure strategic opportunities.
- We bring a creative approach and solutions to sourcing future opportunities and maximizing your returns, value and resources.
- We are a unified team driven by solutions, not silos, and are structured to enable maximum collaboration with a principal-led, asset focused group.

## Investment Sales

Office, Industrial, Retail,  
Multi-family, Hotel, Land,  
Medical Office  
Data Centers, Parking,  
Self-storage  
Development  
& Redevelopment

## Investment Advisory

Asset & Entry Level  
Recapitalization  
Equity Private Placement  
Lease vs. Own Analysis  
Joint Ventures

## Debt Financing/Equity

Office, Industrial, Retail,  
Multi-family, Hotel, Land,  
Medical Office  
Data Centers, Parking,  
Self-storage  
Development  
& Redevelopment



Office



Multi-family



Retail



Land



Industrial



Debt

# Thank you.



Platinum member

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[avisonyoung.com](http://avisonyoung.com)

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**AVISON  
YOUNG**

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# Marketing Proposal

4231 Sheppard Avenue East, Unit C1  
Scarborough, ON

Prepared For:

**Philip Gennis**

**MSI SperGel inc.**

Prepared By:

**Anthony Miller\***

**Associate Vice President**

+1 416 791 7227

anthony.miller@colliers.com

**Chris Lee**

**Senior Sales Representative**

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Colliers International  
245 Yorkland Blvd., Suite 200  
Toronto, ON | M2J 4W9  
**collierscanada.com**



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# Executive Summary

The Colliers Team is both excited and honoured to have the opportunity to discuss how we can partner with MSI Spergel Inc in the marketing of 4231 Sheppard Avenue E, Unit C1, Scarborough, Ontario.

We have outlined below the key elements of our Marketing Strategy and associated tactics to successfully complete this significant assignment. The balance of this proposal provides additional information to support these strategic elements.

- I) A primary focus of our strategy will be to educate the market, both users/investors and brokers alike, in the benefits of this location. There will be much emphasis on why users need to consider this node and to educate these users on the many benefits that this area has to offer. Once this perception is ingrained, the choices in the market becomes very obvious – 4231 Sheppard Avenue E will not be overlooked by any prospective end-users or owners/investors in the market.
- II) Building and changing perceptions is just the first part of the strategy. This needs to be coupled with an in depth systematic prospect campaign. The proposed Colliers Team have the relationships and depth of experience to penetrate a wide range of audience. The Colliers approach will be exhaustive and conducted with an approach that does not rely on waiting for requirements to materialize, but rather to create an alternative for users and investors that had not previously considered Scarborough as the home for their business or investment.

To summarize, our strategy is a multi-faceted approach to highlight the property's positive attributes and to create a bold identity in the market. 4231 Sheppard Avenue E, Unit C1 will be a property that provides significant value to retail users in a market node that offers tremendous advantages with owners and tenants that have a long term vision.

However, this assignment is more than just marketing. It is about a seasoned team that is fully committed and fully engaged to create results that have the conviction and depth of experience necessary to penetrate users and investors in the market and create win-win solutions. Colliers will use its full resources to ensure that 4231 Sheppard Avenue E, Unit C1 does not miss any opportunity and will create opportunity where one was not previously considered.

Thank you for your consideration. We look forward to discussing the attached.



Anthony Miller\*  
Associate Vice President  
Colliers International



Chris Lee  
Senior Sales Representative  
Colliers International

# Market Experience

Representation



# The Team



**Anthony Miller\***

Associate Vice President

**Focus:**

- Industrial Power of Sale Dispositions
- 25 years of experience with major financial institutions



**Chris Lee**

Senior Sales Representative

**Focus:**

- Showings
- Main Point of Contact



**Diana Kovacs**

Investment Project Specialist

**Focus:**

- Listing Support
- Marketing Support

# Points of Difference



**PETER GARRIGAN**

Managing Director

**Focus:**

- GTA Team Leader
- Senior Level Support



The **only agents** that specializes in GTA (Markham, Richmond Hill and Scarborough) that speaks **Cantonese and Mandarin** fluently



**Unique Experience** | 25 years & 50+ transactions with Insolvency and Power of Sale



**Local Expertise** | Understanding highest and best use for the building



**Strongest Market Knowledge** | Most transactions leased and sold



**Over 90 transactions completed in Markham/Richmond Hill/Scarborough each year**



**Top Net Promoter Score (NPS) 2019 & 2020 within Colliers Canada**

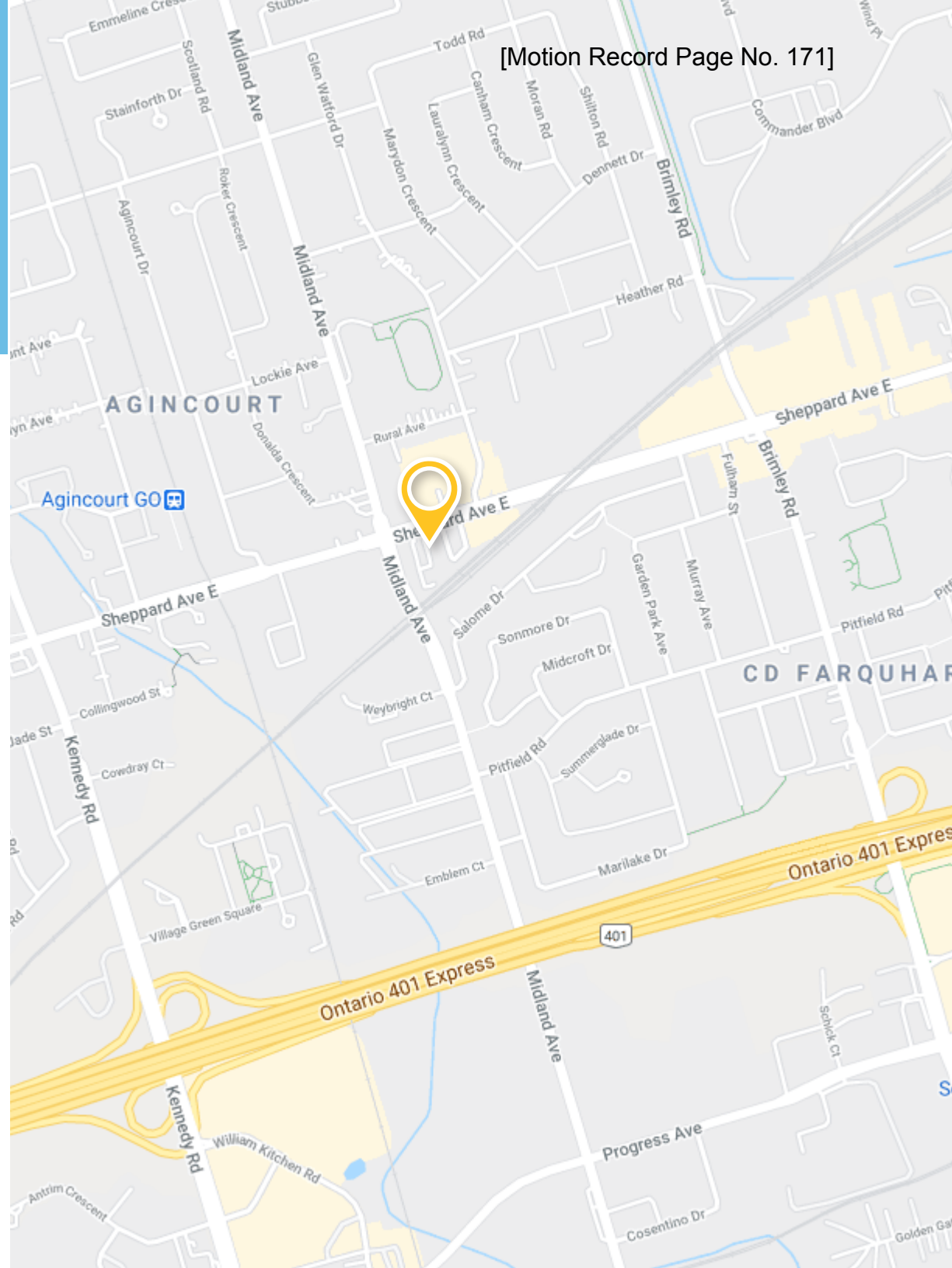


**Strong Technical Experts** | commercial sites in Markham/Richmond Hill

# The Property

## 4231 Sheppard Avenue East, C1 Scarborough, ON

Legal Description	MTCP 1107 Level 1 Unit 41
Total Area	996 SF
Parking	Free Surface Parking
Power	600V 100A
Condo Fee	\$767 per month
Property Tax	\$2,584.45 (2020)
Zoning	CR 0.4 SS3 Commercial Residential
Constructed	1994
Comments	<ul style="list-style-type: none"><li>• Located at major intersection</li><li>• Easy access to public transit (TTC &amp; Agincourt GO)</li></ul>



## Zoning Permitted Use

- » Medical office
- » Retail stores
- » Office
- » Food uses



## Property Positioning

### Primary Points of Difference







- » Multiple access points into the plaza
- » Exposure on Sheppard and Midland
- » TTC in front of building
- » Agincourt GO in close proximity
- » Easy access to Hwy 401 and 404
- » Local amenities such as banks, restaurants, hotels, shopping, gas stations, grocery store & fitness facilities





# Market Knowledge

## Comparable Availabilities for Sale

						
	SUBJECT PROPERTY 4231 Sheppard Ave E, Unit C1	4211 Sheppard Ave E, Unit A118	2347 Kennedy Road, Unit 400 & 401	4438 Sheppard Ave E, Unit 119	2351 Kennedy Road, Unit 119	4002 Sheppard Ave E, Unit 102A
Size (SF)	996	600	946	966	991	668
Condo Fees	\$767.00	\$357.88	\$1,767.81	\$853.25	\$734.04	\$674.38
Property Taxes	\$2,584.45	\$2,197.58	\$4,200.00	\$5,661.00	\$3,210.86	\$3,563.95
Asking Price	██████████	\$179,900.00	\$175,000.00	\$300,000.00	\$449,000.00	\$478,000.00
Price PSF	██████████	\$299.83	\$184.99	\$310.56	\$453.08	\$715.57
Days on Market		485	49	52	35	13
Notes		Same plaza	4th floor office condo	Oriental Shopping Centre	"Retail store beneath residential condo. Includes 1 parking spot"	Currently leased and will have to assume Tenant

# Market Knowledge

## Recent Sale Transactions

							
	SUBJECT PROPERTY 4231 Sheppard Ave E, Unit C1	4385 Sheppard Avenue East, Unit 4	4465 Sheppard Avenue East, Unit 15	4385 Sheppard Avenue East, Unit 8	4400 Sheppard Avenue East, Unit 5	2351 Kennedy Rd	2347 Kennedy Rd, Unit 109
Size (SF)	996	1,050	648	1,030	671	971	787
Condo Fees	\$767.00	N/A	\$797.42	\$759.94	\$480.00	\$720.56	\$776.27
Property Taxes	\$2,584.45	\$3,996.13	\$1,910.92	\$3,978.61	\$4,101.99	\$3,887.94	\$4,835.27
Asking Price	██████████	\$355,000.00	\$199,000.00	\$299,900.00	\$190,000.00	\$410,000.00	\$288,000.00
Sold Price	██████████	\$332,000.00	\$180,000.00	\$285,000.00	\$185,000.00	\$399,000.00	\$258,000.00
Price PSF	██████████	\$316.19	\$277.78	\$276.70	\$275.71	\$410.92	\$327.83
Sold Date		11/3/2020	7/7/2020	6/22/2020	1/31/2020	1/16/2020	12/16/2019
Days on Market		95	71	18	71	48	217
Notes		Over \$150,000 spent on renovations. Tenanted with 5 years term.	Built out as accounting office	Previously operated as a Chinese Herbal store	Well established plaza for restaurants with high exposure onto Midland	Renovated with high end finishes. Move in ready. Includes locker and parking.	Newly renovated unit with new paint and flooring

# Market Recommendation

### Property Assessment

Strengths	Challenges	Solution/Recommendation
<ul style="list-style-type: none"> <li>Well established plaza at a major intersection</li> <li>Corner unit</li> </ul>	<ul style="list-style-type: none"> <li>Limited activity and showings due to COVID-19 and lockdown</li> <li>No direct exposure to Sheppard or Midland</li> </ul>	<ul style="list-style-type: none"> <li>Accurate and aggressive target marketing on potential users</li> <li>Maximum exposure – MLS, E-blast (HTML), websites, on-site signage, etc.</li> <li>Floor Plan, Virtual Tour, Professional Photos</li> <li>Detailed marketing package</li> </ul>

### Estimated Market Value

Address	Building Size	Asking Price	Expected Sale Price
4231 Sheppard Avenue East Unit C1	996 SF	<div style="background-color: black; width: 100%; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 100%; height: 15px;"></div>	<div style="background-color: black; width: 100%; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 100%; height: 15px;"></div>

### Success Fee

5% of the final sale price. Colliers to pay all marketing costs and cooperating brokerage.

# Communication Strategy

01

## AWARENESS

Create momentum/demand.  
Drive awareness of the opportunity with prospects



Database



Flyer & Brochure



Customized Postcard & Maildrop



HTML E-Blasts



Signage



Online Listings

02

## UNDERSTANDING

Direct dialogue with prospects to evaluate the points of difference



Take Away Package



Calling Campaign



Professional Photography



Colliers Website



Virtual Tours



Property Tours

03

## INFLUENCE

Eliminate obstacles and uncover opportunities



Open House Event



Broker Incentives



Drive Time Analysis



Amenities & Neighbours



3 Dimensional Rendering

04

## TRANSACTION

Maximize value achieving total market exposure

### Communication Strategy



A go-to-market communication strategy focused on driving awareness through to conversion, aligning marketing tools and resources with each stage of the communication filter.

# Information Package



**FREESTANDING A CLASS BUILDING WITH OUTSIDE STORAGE**

### FOR SUBLEASE

**55 Nashdene Road, Toronto, ON**

Unique opportunity to lease a freestanding A Class service shop with a high clear height, oversized drive-in doors, radiant heating and outside storage available.

For more information contact us:

**ANTHONY MALLON**  
416 791 7227  
amallon@colliers.com

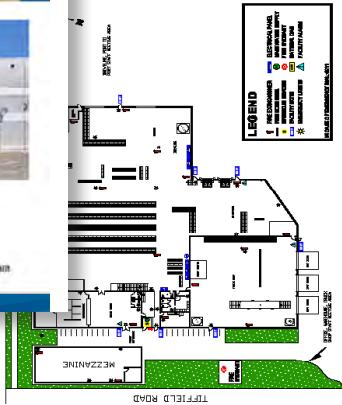
**CHRIS LEE**  
416 791 7226  
clee@colliers.com



### Key Features/Highlights

- > 5 Oversized Drive-In Doors (12x14') > Radiant Heating
- > 2 Truck Level Doors > Multiple Entry Ways
- > 5 Tonne Crane > Transit Accessible
- > 2nd Clear Height > Easy Access to Highway 403

### Floor Plan



### Contact Us

**ANTHONY MALLON**  
Associate Vice President  
416 791 7227  
amallon@colliers.com

**CHRIS LEE**  
Senior Sales Representative  
416 791 7226  
clee@colliers.com

**Colliers International**  
200-240 Veterans Boulevard  
Toronto, ON M2J 4W9  
416 777 2200  
www.colliers.com

### LEASE Living Details

- 55 Nashdene Road
- Building: 28,000 SF (10% Office)
- Land: 2.08 Acres
- 190.50 PSF Net
- \$142 (2018)
- Employment:
- 24' Clear
- 5 Oversized Drive-In Doors (12x14')
- 2 Truck Level Doors
- 50 Day Freeze
- 4 Sublease permits August 2022
- Office area consists of 2 private offices, 2 showrooms, customer waiting area, lunch room, change room and washrooms
- Service area is fully enclosed with 2 oversized drive-in doors, radiant heating, 5 tonne crane and ventilated paint booth.

### Property Photos



### Contact Us

**ANTHONY MALLON**  
Associate Vice President  
416 791 7227  
amallon@colliers.com

**CHRIS LEE**  
Senior Sales Representative  
416 791 7226  
clee@colliers.com

**Colliers International**  
200-240 Veterans Boulevard  
Toronto, ON M2J 4W9  
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www.colliers.com

# [Motion Record Page No. 178] Website Listing

**IMMACULATE UNIT IN HEART OF MARKHAM**  
505 Apple Creek Boulevard, Unit 1, Markham

Listing ID: 17423

**LEASED**

**PROPERTY & LEASE OPTIONS**

- VIEW A VIRTUAL TOUR
- VIEWING
- LEASE AS A FREELAND
- CONTACT PROPERTY

**CONTACTS**

505 Apple Creek Blvd  
Unit 1, Markham, ON

**SHARE THIS PROPERTY**

Facebook  
LinkedIn  
Twitter

**INDUSTRIAL FOR LEASE**  
For Lease  
Industrial Area: 27,912 sq ft

**DESCRIPTION**  
Immaculate 2nd floor unit with 100% glass facade available at 505 Apple Creek Boulevard (downward) located near Highway 7 and Highway 403. 2nd floor unit is 27,912 sq ft. Unit includes radiant heating, 5 tonne crane, 2 truck level doors, 5 oversized drive-in doors, transit accessible, and other leaseable for a great commercial location.

**FEATURES**

- 100% Glass facade
- Immaculate 2nd floor unit
- 2 Oversized Drive-In Doors
- 2 Truck Level Doors
- 5 Tonne Crane
- Transit Accessible
- Easy Access to Highway 403

**SPECIFICATIONS**

Total Area	27,912
Office	2,716
Industrial	25,196

**LEASE AREAS**

Office	2,716
Industrial	25,196

# Email Blast

**Colliers International**

**505 Apple Creek Blvd Unit 1**

**Fully Air-Conditioned**  
**Security**

**Total Area: 27,912 SF**  
**Office: 2,716**  
**Industrial: 25,196**

**Clear Height: 24'**  
**Location: Woodbine Ave & Highway 7**  
**Dispensing: 2 TL**



**CONTACT**

**CHRIS LEE**  
Sales Representative  
416 791 7226  
clee@colliers.com

**ANTHONY MALLON**  
Associate Vice President, Sales Representative  
416 791 7227  
amallon@colliers.com

# Sample Marketing Materials

# Why Colliers

We believe that empowering our service team truly means to partner with each client, listen to their unique business needs and design an integrated service offering.

Our goal is to give your property a competitive business advantage and ensure your entire range of needs are met.

01

## Toronto North/East Dominance

You get a proven track record, experience and expertise.

02

## Market Share

Largest market share of lease/sale transactions in Toronto East, GTA and Canada Marketplaces.

03

## Level of Service and Accountability

You will receive consistent up-to-date information activity levels with detailed progress reports on a weekly/monthly basis

04

## Creative Solutions

You have a team that can creatively procure a deal in the most cost effective manner

05

## We Want Your Business

Our competitors only scratch the surface. Colliers provides results through creative thinking, a positive attitude and commitment to our clients.

Should you have any further questions, please let us know. We appreciate the opportunity and look forward to becoming your strategic alliance.

# How We Stand Apart

## WE HOLD OURSELVES ACCOUNTABLE

**NET PROMOTER®**  
LOYALTY PARTNER



Net Promoter Score is now the worldwide standard for organizations to measure, understand and improve their customer experience and Colliers is the only commercial real estate brokerage in Canada that uses this customer service metric. We believe that what gets measured gets done and we are committed to systematically measuring client satisfaction to improve our customer experience.

## WE BELIEVE THERE IS STRENGTH IN NUMBERS



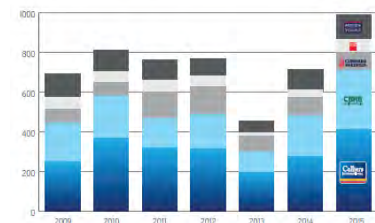
CRM+ is a multi-million dollar proprietary client relationship management system with capabilities previously unseen in the commercial real estate business. Brokers from all over the globe contribute contact, lease and building data to create the most accurate and up to date commercial property database available.

## WE COMPETE TO STAY COMPETITIVE



Marketing Leader Colliers is an internationally recognized leader in commercial real estate marketing. In 2014, Colliers swept the International Property Awards winning back to back for “Best Property Consultancy”, “Best Property Marketing” and “Best Property Consultancy Website”.

## MOST TRUSTED SOURCE FOR CRE INFORMATION



Not only does Colliers own the largest online and print presence amongst all commercial real estate brokerages in Canada, we are also the most frequently cited firm with more print, online and TV media outlets seeking out our experts for their unique market insight.



# Net Promoter Score

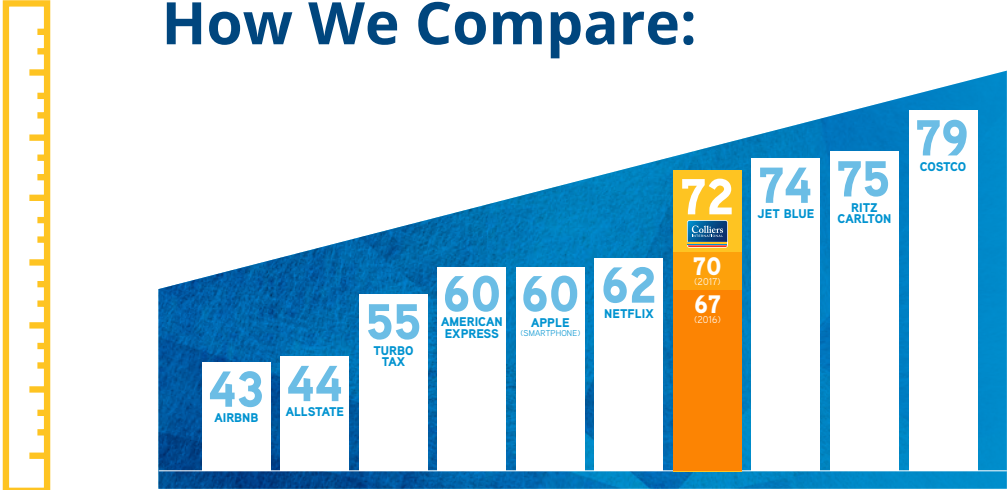
## Why We Do It

We Believe What Can Be Measured Can Be Improved

Some of the most successful companies in the world use the Net Promoter scoring system to gauge customer satisfaction and to identify areas of improvement in customer services delivery.

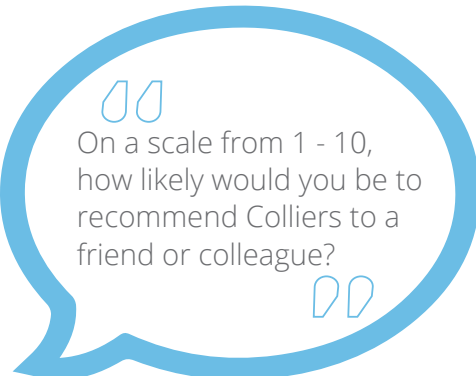
Colliers Canada is the only commercial real estate brokerage in Canada that employs the NPS system to ensure our employees deliver the highest quality service to our clients and are constantly improving.

## How We Compare:

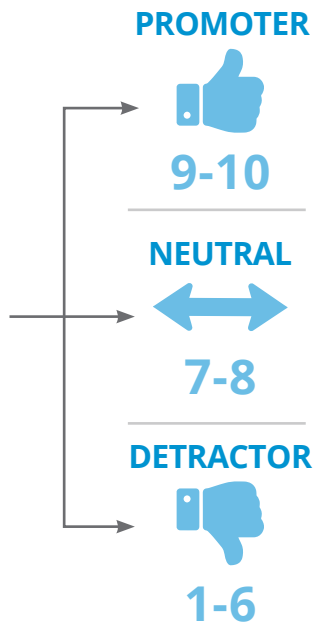


# How It Works:

**01** After a transaction is complete, our clients are asked one simple question:



**02** Responses are categorized into one of three categories:



**03** NPS scores are then calculated using the following formula:

- = **NPS Score**  
**% PROMOTERS**      **% DETRACTORS**

# Biographies

## Anthony Miller

### Area of Expertise

With 30 years commercial real estate experience in the Metro East & North markets, Anthony represents both users and sellers of warehouse and production facilities in achieving their long and short term goals. Companies involved in food production and distribution, bindery and printing services, steel fabricators, heavy crane facilities, manufacturers, wholesalers and logistics companies have all benefited from his strategic consultation.

Anthony also specializes in Power of Sale dispositions for major financial institutions nationally and internationally. Anthony frequently receives 10/10 NPS scores from his highly satisfied clients.

### Notable Past Transactions

- Leased a new 18,000 square foot head office facility to Bravado Designs on Scarsdale Road.
- Sold 390 Midwest Road a 55,000 SF freestanding building to BDS Fleet Services.
- Listed & sold 315 Nantucket Boulevard, an 81,000 SF building to Markdom Plastics.
- Listed and sold 351 Passmore Avenue, a 161,000 square foot crane facility to Samco Machinery, an international roll forming corporation (Vendor was H&R REIT).
- Represented Trans Ontario Express in Acquisition of 10 acre signature site on Markham Rd.
- Relocated WASIP (a well-established safety supply distribution company) to a new 67,000 SF head office facility at 3771 Victoria Park Avenue.
- Disposed of 7 acres of industrial land in Toronto for long term client Keilhauer.
- Acquired 95,000 SF for head office facility in prestigious Beaver Creek for Accolade Group.
- Relocated En-Plas Inc from 1395 Morningside Avenue to 55 Nashdene Road (35,000 SF Sale)

### What Anthony's Clients Have to Say

"You have always had our best interest at heart in all of the negotiations you have completed on our part and when a deal has been done, I know that it is the best that it can be."

#### Mike Keilhauer - President - Keilhauer

"His diligence and professionalism in all matters regarding the sale process led to the Bank receiving maximum value for property. I would highly recommend Anthony to anyone seeking an agent experienced in power of sale actions or any commercial real estate sale."

#### Peter Gordon - Manager, Special Loans - Royal Bank of Canada (RBC)

"His Negotiating skills professionalism and team approach resulted in a favourable sale price for the property."

#### Hassan Jaffer - Senior VP - Grant Thornton

# Chris Lee

## Area of Expertise

Chris Lee specializes in commercial leasing and sales with a focus in the Markham and Richmond Hill region.

Chris' market expertise and creative marketing has helped establish leverage strategies for both Tenants and Landlords. He is quick to ensure all results are delivered on budget, on target, and on time.

In addition to providing outstanding service and in-depth market knowledge to his clients, Chris works diligently to understand the client's needs and ensures that their real estate strategy is aligned with their long-term business goals and objectives.

## Business & Education Background

After graduating from UW, Chris joined Pure Energies as a Solar Specialist and facilitated over 1 million Kilowatts of clean renewable energy as part of the Ontario MicroFit Program.

Prior to joining the Colliers International Team, Chris was a realtor with HomeLife, where he continually produced notable results. His proactive approach and strong work ethics allowed him to quickly become an expert in the GTA West residential market. In only his second year, he achieved the HomeLife Gold Award for Outstanding Achievements.

Chris' background in Environmental Studies and Spatial Analysis has given him the knowledge to assist clients with a sophisticated insight in environmental assessments and site selections. His key strengths lie in his ability to effectively assemble a proficient team and collaborate with diverse stakeholders involved in a project. He is often commended by his clients for his due diligence and overall successful execution.

## Community Involvement

Chris supports and gets involved with many charitable organizations such as:

- Habitat for Humanity
- Juvenile Diabetes Research Foundation (JDRF)
- Yee Hong Community Foundation
- Sick Kids Foundation
- Canadian Cancer Society
- Easter Seals Telethon Ontario
- Camp Ooch

# 4231 Sheppard Avenue E, Unit C1 Richmond Hill, ON

For More Information, Please Contact

**Anthony Miller\***  
Associate Vice President  
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anthony.miller@colliers.  
com

**Chris Lee**  
Senior Sales Representative  
+1 416 791 7216  
chris.lee@colliers.com



# **APPENDIX 8**



Form 520 for use in the Province of Ontario

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



This is a Multiple Listing Service Agreement OR This Listing is Exclusive EXCLUSIVE (Seller's Initials)

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

(the "Listing Brokerage") Tel. No. 416-673-4030 msi Spergel Inc., solely in its capacity as court-appointed receiver of 4231 Sheppard Avenue East Inc., and not in any personal nor corporate capacity (the "Seller")

In consideration of the Listing Brokerage listing the real property for sale known as 4231 Sheppard Avenue East, Unit C-1, Toronto (Scarborough) P.I.N.: 12107-0041; Legally described as: Unit 41, Level 1, Metro Toronto Condominium Plan No. 1107 (the "Property") the Seller hereby gives the Listing Brokerage the exclusive and irrevocable right to act as the Seller's agent,

commencing at 12:01 a.m. on the 1st day of April, 2021, until 11:59 p.m. on the 30th day of September, 2021 (the "Listing Period"),

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

to offer the Property for sale at a price of: Three Hundred and Fifty Thousand Dollars (\$CDN) 350,000.00 and upon the terms particularly set out herein, or at such other price and/or terms acceptable to the Seller. It is understood that the price and/or terms set out herein are at the Seller's personal request, after full discussion with the Listing Brokerage's representative regarding potential market value of the Property.

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

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

2. COMMISSION: In consideration of the Listing Brokerage listing the Property for sale, the Seller agrees to pay the Listing Brokerage a commission of 5.0% % of the sale price of the Property or for any valid offer to purchase the Property from any source whatsoever obtained during the Listing Period and on the terms and conditions set out in this Agreement OR such other terms and conditions as the Seller may accept.

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

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The Seller authorizes the Listing Brokerage to co-operate with any other registered real estate brokerage (co-operating brokerage), and to offer to pay the co-operating brokerage a commission of 2.25 % of the sale price of the Property or .....

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

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

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.

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

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

However, the Seller further understands and acknowledges that the Listing Brokerage shall not disclose:

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


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

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

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

**INITIALS OF LISTING BROKERAGE:** 

**INITIALS OF SELLER(S):** 

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4. **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's 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.

5. **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 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.

6. **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.

7. **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.

8. ~~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, 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. **INTENTIONALLY DELETED.**

9. **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.

10. ~~FINDERS FEES~~ The Seller acknowledges that the Brokerage may be entitled to a fee or reward and the Seller agrees to pay such fee or reward. **Intentionally Deleted**

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.

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

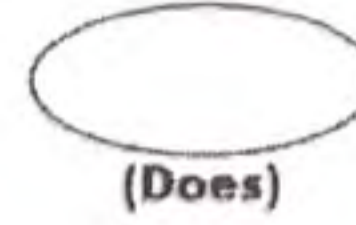
INITIALS OF LISTING BROKERAGE:

INITIALS OF SELLER(S):

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 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.

**17. SCHEDULE(S)** A ..... and data form attached hereto form(s) part of this Agreement.

**THE LISTING BROKERAGE AGREES TO MARKET THE PROPERTY ON BEHALF OF THE SELLER AND 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)

.....  
(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 the 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., solely in its capacity as court-appointed receiver of 4231 Sheppard Avenue East Inc., and not in any personal or corporate capacity

.....  
(Name of Seller)

.....  
(Signature of Seller/Authorized Signing Officer)

●

.....  
(Date)

.....  
(Tel. No.)

.....  
(Signature of Seller/Authorized Signing Officer)

●

.....  
(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)

●

.....  
(Date)

.....  
(Tel. No.)

**DECLARATION OF INSURANCE**

The Salesperson/Broker/Broker of Record Kelly Avison Jesse Fragale  
.....  
(Name of Salesperson/Broker/Broker of Record)

hereby declares that he/she is insured as required by REBBA.

.....  
*Kelly Avison*

.....  
(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 24<sup>th</sup> day of March ....., 20<sup>21</sup>**

.....  
(Signature of Seller)

.....  
(Date)

March 24, 2021

.....  
(Signature of Seller)

.....  
(Date)

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## SCHEDULE "A"

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 purchase is completed. Avison Young (hereinafter, the "Broker") acknowledges that the sale is taking place pursuant to the court order of The Honourable Justice Cavanagh and that further court approval of the sale ("Court Approval") is a pre-condition to completion of the transaction. The Seller cannot guarantee that Court Approval 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 the 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 Vendor 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 Vendor provide the Broker with any indemnification regarding any such matters.
4. In the event of any conflict between the provisions of this Schedule "B" and the provisions of the pre-printed portions of the Listing Agreement, the provisions of this Schedule "B" shall override and shall govern and prevail for all purposes.
5. Any prospective purchaser agrees to use the Vendors Form of Offer which will be provided by the Broker to such prospective purchaser.
6. Any prospective purchaser and/or selling agent agrees to sign a Covid-19 Release provided by the Vendor's Agent prior to attending any tour or other viewing of the premises.
7. The terms in the Agreement with respect to the payment of commission to the Listing Brokerage through the Holdover Period do not apply in the event that there is an auction or tender of the property by the Seller subsequent to the expiry of the listing. The Seller will have no obligation to pay any commission to the Listing Brokerage in the event that the property is sold at auction or tender subsequent to the expiry of the listing.

# **APPENDIX 9**

**AGREEMENT OF PURCHASE AND SALE**

**(4231 SHEPPARD AVENUE EAST, UNIT C1, TORONTO, ONTARIO)**

THIS AGREEMENT dated as of the 11 day of July, 2021,

BETWEEN:

**MSI SPERGEL INC.**, solely in its capacity as Court-appointed receiver of **4231 SHEPPARD AVENUE EAST INC.** and not in its personal or corporate capacity and without personal or corporate liability

(the "Vendor" or "Receiver")

OF THE FIRST PART

- and -

2759232 ONTARIO CORPORATION

(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) "**Agreement**" means this agreement of purchase and sale executed by the Purchaser and accepted by the Vendor, together with the attached schedules;
- (c) "**Approval and Vesting Order**" shall have the meaning ascribed thereto in Section 13(a) hereof;
- (d) "**Buildings**" means the buildings, improvements, installations and fixtures of every nature and kind situate in, on and/or over the Lands;

-2-

- (e) **"Business Day"** means any day other than a Saturday or a Sunday or a statutory holiday in the Province of Ontario;
- (f) **"Claims"** means security interests (whether contractual, statutory or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory or otherwise), liens, executions, writs of seizure and sale, levies, charges or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise;
- (g) **"Closing"** shall have the meaning ascribed thereto in Section 6 hereof;
- (h) **"Condominium Corporation"** shall mean Metro Toronto Condominium Plan No. 1107 ("**MTCC 1107**");
- (i) **"Court"** means the Ontario Superior Court of Justice (Commercial List);
- (j) **"Court Order"** means the Amended and Restated order of the Honourable Justice Cavanagh dated the 3rd day of February, 2021, whereby the Vendor was appointed receiver, inter alia of 4231 Sheppard Avenue East Inc., 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";
- (k) **"Damages"** shall have the meaning ascribed thereto in Section 14(h) hereof;
- (l) **"Closing Date"** shall have the meaning ascribed thereto in Section 6 hereof;
- (m) **"Deposit"** shall have the meaning ascribed thereto in Section 3(a) hereof;
- (n) **"DRA"** shall have the meaning ascribed thereto in Section 7(a)(i) hereof;
- (o) **"Due Diligence Period"** shall have the meaning ascribed thereto in Section 12(a)(i) hereof;
- (p) **"Environmental Law"** means any and all federal, provincial and municipal statutes, regulations, orders, judgments, directives and authorizations relating to the environment, occupational health and safety, health protection and/or Hazardous Materials;
- (q) **"Government Authority"** means any person, body, department, bureau, agency, board, tribunal, commission, branch or office of any federal, provincial or municipal government having or claiming to have jurisdiction over part or all of the 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;

- (r) **"Hazardous Materials"** means any contaminants, pollutants, substances or materials that, when released to the natural environment, could cause, at some immediate or future time, material 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 shall include all "contaminants", "dangerous substances", "hazardous materials", "hazardous substances", "hazardous wastes", "industrial wastes", "liquid wastes", "pollutants" and "toxic substances", all as defined in, referred to or contemplated in federal, provincial and/or municipal statutes, regulations, orders, judgments, directives and/or authorizations relating to the environment, occupational health and safety and/or health protection (including, without limitation, material quantities of asbestos, urea formaldehyde foam insulation and mono-chlorinated or poly-chlorinated biphenyl wastes);
- (s) **"HST"** shall have the meaning ascribed thereto in Section 16(a) hereof;
- (t) **"Lands"** means the lands and premises legally described in Schedule "B" hereof, 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;
- (u) **"Material Damage"** shall have the meaning ascribed thereto in Section 8 hereof;
- (v) **"Permitted Encumbrances"** means the encumbrances listed in Schedule "C" hereof;
- (w) **"Purchase Price"** shall have the meaning ascribed thereto in Section 3 hereof;
- (x) **"Purchased Assets"** means the Lands, Buildings and all Rights relating thereto, but expressly excluding all personal property located or situate therein;
- (y) **"Purchaser"** means 2759232 Ontario Corporation  
\_\_\_\_\_;
- (z) **"Purchaser's Solicitors"** means Summit Ho  
Telephone: 905-709-9938 \_\_\_\_\_;
- (aa) **"Registry Office"** shall have the meaning ascribed thereto in Section 7(a) hereof;
- (bb) **"Rights"** means all right, title and interest, if any, of 4231 Sheppard Avenue East Inc. in all benefits, advantages, licences, guarantees, warranties,

indemnities, income, rents and options relating to the Lands and/or Buildings, to the extent that they are assignable without third party consent;

- (cc) **"Status Certificate"** means the Certificates issued by the Condominium Corporation with respect to the Purchased Assets;
- (dd) **"TERS"** shall have the meaning ascribed thereto in Section 7(a) hereof;
- (ee) **"Vendor"** means msi Spergel inc., solely in its capacity as Court-appointed receiver of 4231 Sheppard Avenue East Inc., and not in its personal or corporate capacity and without personal or corporate liability;
- (ff) **"Vendor's Deliveries"** shall have the meaning ascribed thereto in Section 5 hereof; and
- (gg) **"Vendor's Solicitors"** means the firm of Goldman, Sloan, Nash and Haber, 480 University Avenue, Suite 1600, Toronto, ON M5G 1V2.

## 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.

## 3. PURCHASE PRICE

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

- (a) **Deposit:** by the Purchaser delivering to the Vendor within two (2) Business Days following execution of this Agreement by both parties hereto, the sum of \_\_\_\_\_ Dollars (the **"Deposit"**), by way of wire transfer drawn upon one of Canada's five (5) largest 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 shall 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) **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 five (5) largest chartered banks.

R JT



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 all filings in connection therewith.

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

- (a) Closing Adjustments: Adjustment shall be made, as of 12:01 a.m. on the Closing Date, for condominium common expenses, realty taxes, local improvement rates, municipal/provincial levies and charges, water and assessment rates and utilities, provided that the aforementioned items form a lien on title and are not vested out by the Approval and Vesting Order. The Closing Date shall be for the account of the Purchaser, both as to income and expense.

5. **TERMS OF PURCHASE**

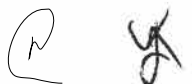
- (a) "As Is, Where Is": The Purchaser acknowledges that the Vendor is selling and the Purchaser is purchasing the Purchased Assets on an "as is, where is" basis subject to all defects, conditions, impediments, Hazardous Materials and other deficiencies which may exist on the Closing Date including, without limitation, all latent and all patent defects in the Purchased Assets and such additional defects which 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, encumbrances, description, fitness for purpose or use, the existence or non-existence of Hazardous Materials, compliance with any or all Environmental Law, income, merchantability, physical condition, quality, lawful use and in respect of all other matters or thing whatsoever concerning the Purchased Assets, and the right of the Vendor to sell same, save and except as otherwise expressly provided for in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties and representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) or pursuant to any other applicable law shall not apply to this Agreement and/or the transaction contemplated hereunder and are hereby waived by the Purchaser. All material, documentation, information, data and descriptions 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 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, then the Purchaser shall be deemed to have

assumed any and all risks relating to the 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.

- (b) **No Representations or Warranties:** 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 relating 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 Purchased Assets or any matter or thing arising out of or in any way connected therewith;
  - (ii) the conformity of the Lands to past, current and future applicable zoning or building code requirements;
  - (iii) the existence of soil instability, past soil repairs, soil additions and/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 Lands;
  - (viii) the availability of public utilities and services for the Lands;
  - (ix) the sufficiency and adequacy of all wells and water supply for irrigation or any other purpose;
  - (x) the existence of zoning or building entitlements affecting the Lands;
  - (xi) whether any fixtures attaching to the Lands are owned or rented; and
  - (xii) that keys or passcodes for the Buildings shall be available on the Closing Date or immediately thereafter.
- (c) **Existing Leases:** The Purchaser agrees to assume all existing leases and occupancy agreements affecting the Lands, if any, on Closing.

## 6. CLOSING DATE

Subject to the provisions of Sections 11 and 12 hereof, the transaction contemplated hereunder shall be completed (the moment of completion shall be referred to as



("Closing") on the day which is ten (10) Business Days following the date upon which the Vendor obtains the Approval and Vesting Order (the "Closing Date").

## 7. ELECTRONIC REGISTRATION

- (a) In the event that the electronic registration system ("TERS") is operative in the relevant land registry office (the "Registry Office"), the following provisions shall apply:
- (i) The Purchaser shall be obliged to retain a firm of solicitors who is both an authorized TERS user and is in good standing with the Law Society of Upper Canada to represent the Purchaser in connection with the completion of the transaction and shall authorize such solicitors to enter into a document registration agreement with the Vendor's Solicitors in the form adopted by the joint LSUC-CBAO Committee on Electronic Registration of Title Documents on March 29, 2004 (the "DRA"), establishing the escrow and registration procedures for completing this transaction.
- (b) If through no fault of the Purchaser's Solicitors or the Vendor's Solicitors TERS is unavailable on the Closing Date, such that the Purchaser's Solicitors are 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 Solicitors forthwith and the parties shall arrange to complete the registration of the Application for registration of the Approval and Vesting Order as expeditiously as possible, whereupon the escrow shall be released.

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

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

The 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 two hundred and fifty thousand (\$250,000) Dollars, as determined by an independent third party expert appointed by the Vendor ("Material Damage"), the Purchaser may, at its option: (a) complete the transaction contemplated by this Agreement without reduction of the Purchase Price, in which event all proceeds of insurance and compensation shall be payable to the Purchaser; or (b) rescind this Agreement, and the parties hereto shall have no further rights and/or remedies against each other and the Deposit shall be returned to the Purchaser forthwith, without interest and without deduction. The Vendor shall use reasonable commercial efforts to advise the Purchaser, in writing, within twenty-four (24) hours following the Vendor learning of any Material Damage to the Purchased

Assets. The Purchaser shall have five (5) days, or such longer period as the Vendor in its sole and absolute discretion may agree to in writing, from delivery of such notice to advise the Vendor in writing as to its election, if any. In the event that the Purchaser fails to notify the Vendor in writing as to its election within the prescribed time period, then the Vendor may terminate this Agreement immediately by providing written notice to the Purchaser and the parties hereto shall have no further rights and/or remedies against each other and the Deposit shall be returned to the Purchaser forthwith, without interest and without deduction, failing which, the Purchaser shall be deemed to have elected to complete the transaction in accordance with subparagraph (a) above.

9. **VENDOR'S REPRESENTATIONS AND WARRANTIES**

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

- (a) Non-Residency: the Vendor is not now and does not intend to become, prior to Closing, a non-resident of Canada within the meaning and purpose of Section 116 of the *Income Tax Act* (Canada); the Vendor is not now and does not intend to become, prior to Closing, an agent or a trustee of such non-resident; and
- (b) Authority to Sell: MSI SPERGEL INC. has been duly appointed as Receiver of 4231 Sheppard Avenue East 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 MSI SPERGEL INC. will 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/or by-laws;
  - (ii) any agreement to which the Purchaser is bound;

- (iii) any judgment or order of a court of competent authority or any Government Authority; and/or
- (iv) any applicable law,

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

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 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 of the Approval and Vesting Order and the Approval and Vesting Order shall not have been stayed, varied or vacated and shall be in full force and effect and no order restraining or prohibiting Closing shall have been made by the Court; and
  - (iv) **Corporate Steps and Proceedings**: all necessary corporate steps and proceedings shall have been taken by the Purchaser to permit the Purchaser's execution of this Agreement and performance of 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 may be waived by the Vendor in whole or in part.

- (b) The Vendor covenants to use reasonable commercial efforts to fulfil or cause to be fulfilled the condition contained in Section 11(iii) and the



Purchaser covenants to use reasonable commercial efforts to fulfil or cause to be fulfilled the conditions contained in Section 11 hereof prior to Closing.

- (c) In the event that any of the foregoing conditions shall not be fulfilled, in whole or in part, at or prior to Closing, then the Vendor may, in its sole 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 (as indicated), of each of the following conditions:

(i) ~~**Due Diligence Period:** the Purchaser shall have a period of seven (7) Business Days commencing on the first day immediately following the day of execution of this Agreement by the Vendor and the Purchaser to complete its due diligence (the "**Due Diligence Period**"). In the event, this condition is not waived within or at the end of the Due Diligence Period, then this Agreement shall be null and void and the Deposit shall be returned to the Purchaser without interest and without deduction;~~

(ii) **Representations and Warranties:** each of the Vendor's representations and warranties contained in this Agreement shall continue to be true in all material respects as at Closing;

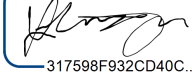
(iii) **Covenants/Agreements:** the Vendor shall have complied with each and every covenant/agreement made by it herein and required to be completed at or prior to Closing; and

(iv) **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 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 may be waived by the Purchaser in whole or in part.

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

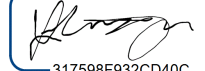
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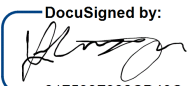
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### 13. VENDOR'S CLOSING DELIVERIES

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 (the "**Approval and Vesting Order**") vesting in the Purchaser all right, title and interest of 4231 Sheppard Avenue East 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 of Schedule "D" attached hereto;
- (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 expressly provided hereunder, 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; such estimated adjustments shall, for all purposes, constitute final adjustments as between the parties hereto; 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 real property taxes, condominium common expenses and/or 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 relevant Government Authority authorizing it to pay to the Vendor any realty tax rebate (together with interest thereon) obtained by the Vendor in respect of the period prior to Closing; provided that in the event the relevant Government Authority does not deliver such rebate directly to the Vendor,

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then the Purchaser hereby irrevocably undertakes to deliver such realty tax rebate to the Vendor upon either receipt or readjustment of same.

- (f) **Non-Residence Certificate**: the Vendor's certificate setting out that the Vendor is not a "non-resident" of Canada within the meaning and purpose of Section 116 of the *Income Tax Act* (Canada) and is not the agent nor trustee of a "non-resident"; and
- (g) **General Deliveries**: such further documentation relating to the completion of the transaction contemplated hereunder as shall be:
  - (i) otherwise referred to herein; or
  - (ii) required by law and/or any Government Authority.

Provided that such further documentation shall be 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 Closing or on such other date expressly provided herein:

- (a) **Direction Regarding Title**: a direction from the Purchaser designating the transferee(s) in the Approval and Vesting Order (required only in the event that the Approval and Vesting Order is to be inscribed in favour of a person/entity other than the Purchaser), provided that any such transferee(s) shall also provide a written agreement in favour of the Vendor to assume and be bound by all of the obligations of the Purchaser under this Agreement;
- (b) **Undertaking To Re-Adjust**: the Purchaser's undertaking to re-adjust any item on or omitted from the statement of adjustments, subject to the limitation contained in Subsection 4(a) hereof;
- (c) **Purchaser's Certificates**: the Purchaser's certificate setting out that each of the Purchaser's representations and warranties contained in this Agreement are true as at Closing;
- (d) **Directors' Resolution**: a certified copy of a resolution of the board of directors of the Purchaser authorizing the execution of this Agreement and performance of each of the Purchaser's obligations hereunder;
- (e) **HST Indemnity**: the indemnity provided for under Section 16 hereof;



- (f) **Certificate of Incumbency**: a certificate of incumbency setting out the names and specimen signatures of each of the directors and officers of the Purchaser;
- (g) **Purchaser's Agents Commissions**: evidence of payment by the Purchaser of any commission or other remuneration payable to the Purchaser's agent, if any, in connection with the purchase of the Purchased Assets, or a certificate from the Purchaser certifying that it has not retained any such agent and that no such commission or other remuneration is payable;
- (h) **Environmental Indemnity**: an environmental indemnity indemnifying and holding the Vendor harmless from any and all damages, claims, actions, losses, costs, liabilities and 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 the 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 satisfying an administrative order from a Government Authority or in satisfying 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 likely 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 material 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; and/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) **Assumption of Permitted Encumbrances**: an assumption agreement providing for the Purchaser's assumption of all obligations pursuant to the Permitted Encumbrances and an indemnity in favour of the Vendor in respect thereof; and
- (k) **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 undertaking 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) hereof.

17. **NOTICE**

Any notice given hereunder shall be in writing and delivered or communicated by email as follows:

in the case of the Purchaser to:

LIVING REALTY INC. BROKERAGE  
& STEELCASE REALTY W31  
MARKHAM, ONTARIO  
L3R 1B2

Attention: JANIS WONG  
Email: dauidwong@livingrealty.com  
Telephone: 905 474 0500 416-230-8866

with a copy to the Purchaser's Solicitors:

SUNNY HO  
15 WERTHEIM COURT  
RICHMOND HILL, ONTARIO  
L4B 3H7

Attention: SUNNY HO  
Email: Sunny@sunnylawoffice.com  
Telephone: 905-709-9938

and in the case of the Vendor to:

Msi Spergel inc., in its capacity as  
Court-Appointed Receiver of  
4231 Sheppard Avenue East Inc.  
200-505 Consumers Road  
Toronto, Ontario M2J 4V8

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

*(Handwritten initials)*

with a copy to the Vendor's Solicitors:

Goldman Sloan Nash and Haber  
1600-480 University Avenue  
Toronto, ON M5G 1V2

Attention: Brendan Bissell  
Email: [bissell@gsnh.com](mailto:bissell@gsnh.com)  
Telephone: (416) 597-6489  
Fax: (416) 597-9922

Such notice shall be deemed to have been delivered upon delivery or communicated by email unless such notice is delivered or communicated outside of usual business hours, in which event the notice shall be deemed to have been delivered or communicated on the next Business Day. A party may change its address and/or email address 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. Any one or more of the said conditions may be waived, in writing, in whole or in part, by the benefiting party without prejudice to the benefiting party's right of termination in the event of the non-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 paragraph 7, any tender of notices, documents and/or monies hereunder may be made upon the Vendor or the Purchaser or their respective solicitors. Monies shall be tendered by wire transfer from one of Canada's five (5) largest chartered banks.

**28. FURTHER ASSURANCES**

Except as otherwise expressed herein to the contrary, each party shall, without receiving additional consideration therefor, 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 enforce any of its other rights/remedies, if any, pursuant to common law, equity or statute; and/or
- (d) to comply with laws requiring disclosure.

In the event that the transaction contemplated in this Agreement is, for any reason whatsoever, not completed, then the Purchaser shall, upon request from the Vendor, promptly return to the Vendor all materials delivered hereunder and deliver to the Vendor all copies of materials made available hereunder.

**30. NON-BUSINESS DAYS**

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

**31. DOCUMENTATION PREPARATION AND REGISTRATION**

The Purchaser shall prepare or cause to be prepared the land transfer tax affidavit to be attached to the Approval and Vesting Order described in Subsection 13(a) hereof and

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

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

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

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

33. **GOVERNING LAWS**

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

34. **ASSIGNMENT**

The Purchaser shall not assign part or all of its interest under this Agreement without the prior written consent of the Vendor, which consent may be withheld in the Vendor's sole and unfettered discretion. 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. NON-REGISTRATION OF AGREEMENT**

The Purchaser acknowledges that this Agreement is personal to the Purchaser and that this Agreement or any monies paid hereunder do not create an interest in the Lands and the Purchaser further acknowledges that upon any breach of this Agreement by the Vendor, the Purchaser has an adequate remedy in damages. 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 Closing Date.

**36. VENDOR'S CAPACITY**

It is acknowledged by the Purchaser that msi Spergel inc. is entering into this Agreement solely in its capacity as Court-appointed receiver of 4231 Sheppard Avenue East 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 4231 Sheppard Avenue East 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.

**37. SUCCESSORS AND ASSIGNS**

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

**38. TIME FOR ACCEPTANCE**

The offer to purchase comprising this Agreement shall be irrevocable by the Purchaser and open for acceptance by the Vendor until 5:00 o'clock p.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 2021, after which time, if not accepted and notice of such acceptance communicated to the Purchaser, then such offer to purchase shall be null and void and of no further force and effect.



**35. NON-REGISTRATION OF AGREEMENT**

The Purchaser acknowledges that this Agreement is personal to the Purchaser and that this Agreement or any monies paid hereunder do not create an interest in the Lands and the Purchaser further acknowledges that upon any breach of this Agreement by the Vendor, the Purchaser has an adequate remedy in damages. 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 Closing Date.

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**37. SUCCESSORS AND ASSIGNS**

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

**38. TIME FOR ACCEPTANCE**

The offer to purchase comprising this Agreement shall be irrevocable by the Purchaser and open for acceptance by the Vendor until 5:00 o'clock p.m. on the 13th day of July, 2021, after which time, if not accepted and notice of such acceptance communicated to the Purchaser, then such offer to purchase shall be null and void and of no further force and effect.

DocuSigned by:  
  
317598F932CD40C...

7/12/2021 | 6:33 PM PDT

**DATED** as of the date first mentioned above.

2759232 Ontario Corporation  
 By: [Signature]  
 Name: LISA TRUONG  
 Title: PRESIDENT

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** as of this 12th day of July, 2021.

**MSI SPERGEL INC.**, solely in its capacity as Court-appointed receiver of **4231 SHEPPARD AVENUE EAST INC.** and not in its personal or corporate capacity and without personal or corporate liability

By: [Signature]  
 Name: Mukul Manchanda, CPA, CIRP, LIT  
 Title: Managing Partner

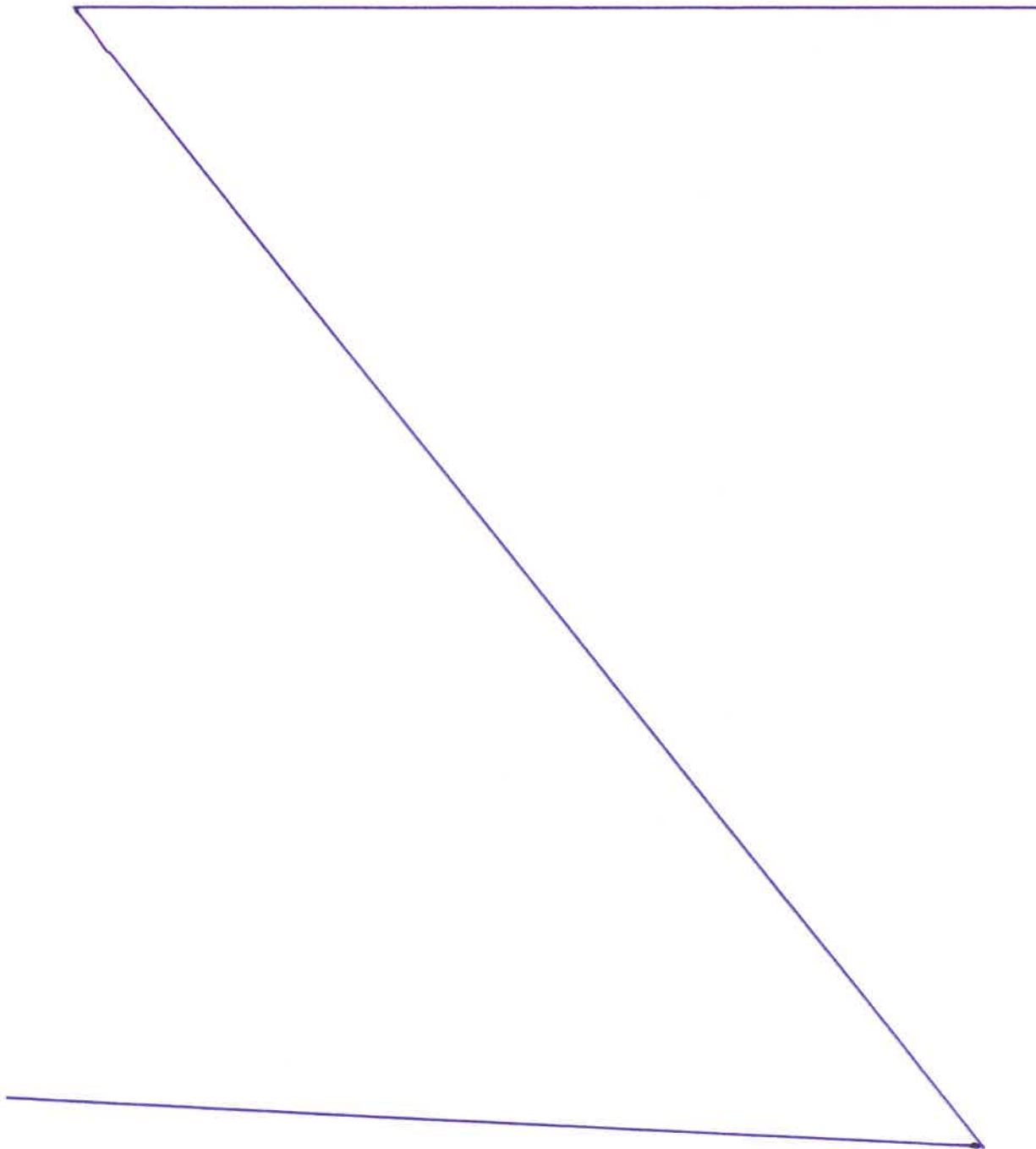
I have authority to bind the Corporation.

[Handwritten initials]

**SCHEDULE "A" - COURT ORDER**

SEE ATTACHED. 19 PAGES.

*[Handwritten signature]*



*[Handwritten mark]*

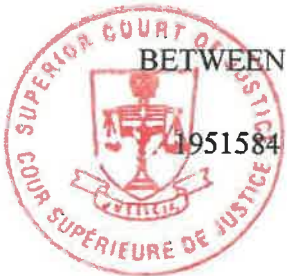
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HA SCHEDULE A. - COURT ORDER.

Court File No. CV-20-00650853-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE MR. ) WEDNESDAY, THE  
JUSTICE CAVANAGH ) 3<sup>rd</sup> DAY OF FEBRUARY, 2021



BETWEEN

1951584 ONTARIO INC. (formerly DESANTE FINANCIAL SERVICES INC.) and CWB  
MAXIUM FINANCIAL INC.

Applicants

-and-

4231 SHEPPARD AVENUE EAST INC., ABU SEIFEIN BRIMLEY PHARMA INC., BLESS  
HUI PHARMA INC., JG WINDSOR INC., JM WESTVIEW PHARMA INC., JUBILEE  
PROPERTY INVESTMENTS INC., MAPLE MEDI PHARMA INC., RIVER HILL  
PHARMACY LTD., SJ EAST PHARMA INC., ST. MARY COOKSVILLE PHARMA INC.,  
ST. MARY THEOTOKOS PHARMA INC., STONEY CREEK PHARMA INC., TORONTO  
APOTHECARY PHARMA INC., WESTWAY HOLDINGS INC. AND OLDE  
WALKERVILLE HOLDINGS INC.

Respondents

**AMENDED AND RESTATED RECEIVERSHIP 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. ("Spergel") as receiver (in such capacity, the "Receiver") without security, of all of the assets, undertakings and properties of each of the Respondents acquired for, or used in relation to businesses carried on by the Respondents, was heard this day by ZOOM video conference due to the COVID-19 pandemic.

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ON READING the Order of this Court dated November 25, 2020, among other things, appointing Spergel as Receiver of the Debtors (as defined below) (the “Receivership Order”), the Amended and Restated Receivership Order dated December 7, 2020 amending and restating the Receivership Order, and by the Order of this Court dated January 8, 2021 and the Order of this Court dated January 26, 2021, among other things, authorizing the issuance of this Amended and Restated Receivership Order (as amended and restated, the “Amended Receivership Order”), the Affidavit of Edward Hopkinson sworn October 30, 2020, Supplemental Affidavit of Edward Hopkinson sworn November 24, 2020 and on being advised that the Debtors (as defined below) consent to this Order, and on hearing the submissions of counsel for the Applicants and the Debtors and the other Counsel listed on the Counsel Slip, no one else appearing although duly served according to the Affidavit of Service of Asim Iqbal sworn November 24, 2020; and

ON READING the Affidavit of Edward Hopkinson sworn October 30, 2020, Affidavit of Edward Hopkinson sworn January 24, 2021, the Supplemental Affidavit of Edward Hopkinson sworn January 29, 2021, the Reply Affidavit of Edward Hopkinson sworn February 1, 2021, the Report of msi Spergel inc. in its capacity as Proposed Receiver dated January 25, 2021, First Report of msi Spergel inc. in its capacity as Receiver SJ East Pharma Inc., JM Westview Pharma Inc. and others dated February 1, 2021, the Responding Motion Record of the Respondents and the Supplementary Responding Affidavit of Gamal Gerges sworn February 2, 2021, and on hearing the submissions of counsel for the Applicants and the Respondents and the other Counsel listed on the Counsel Slip, no one else appearing although duly served according to the Affidavit of Service of Asim Iqbal, sworn January 25, 2021, and on being advised that the Applicants and the Respondent consent to this Order;

#### **INTERPRETATION**

1. **THIS COURT ORDERS** that, in this Order, the term “**Order Date**” shall mean the following:

- (a) November 25, 2020, with respect to Bless Hui Pharma Inc., Maple Medi Pharma Inc., River Hill Pharmacy Ltd., St. Mary Theotokos Pharma Inc., Stoney Creek Pharma Inc., Toronto Apothecary Pharma Inc., Westway Holdings Inc., and Olde Walkerville Holdings Inc.;

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- (b) January 26, 2021, with respect to JM Westview Pharma Inc. and SJ East Pharma Inc.; and
- (c) February 3<sup>rd</sup>, 2021, with respect to St. Mary Cooksville Pharma Inc., 4231 Sheppard Avenue East Inc., Jubilee Property Investors Inc., and JG Windsor Inc.

**SERVICE**

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

**APPOINTMENT**

3. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, Spergel is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of each of the Respondents, being 4231 Sheppard Avenue East Inc., Bless Hui Pharma Inc., JG Windsor Inc., JM Westview Pharma Inc., Jubilee Property Investments Inc., Maple Medi Pharma Inc., River Hill Pharmacy Ltd., SJ East Pharma Inc., St. Mary Cooksville Pharma Inc., St. Mary Theotokos Pharma Inc., Stoney Creek Pharma Inc., Toronto Apothecary Pharma Inc., Westway Holdings Inc., and Olde Walkerville Holdings Inc. (together, the “Debtors”) acquired for, or used in relation to a business carried on by each of the Debtors, including all proceeds thereof (collectively, the “Property”).

**RECEIVER’S POWERS**

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;

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- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtors (or any one of them), including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors (or any one of them);
- (d) to engage pharmacists, consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors (or any one of them) or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors (or any one of them) and to exercise all remedies of the Debtors (or any one of them) in collecting such monies, including, without limitation, to enforce any security held by the Debtors (or any one of them);
- (g) to settle, extend or compromise any indebtedness owing to the Debtors (or any one of them);
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors (or any one of them), for any purpose pursuant to this Order;

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- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors (or any one of them), the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
  - (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
  - (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
    - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000.00, provided that the aggregate consideration for all such transactions does not exceed \$100,000.00; and
    - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;
- and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* shall not be required;
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
  - (m) to summarily dispose of Property that is perishable or likely to depreciate rapidly in value;
  - (n) 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

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Receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;

- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors (or any one of them);
- (q) to enter into agreements with any licensed insolvency trustee in bankruptcy appointed in respect of the Debtors (or any one of them), including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors (or any one of them);
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtors (or any one of them) may have;
- (s) to inquire into and report to the Applicants and the Court on the financial condition of the Debtors (or any one of them) and the Property;
- (t) to file an assignment in bankruptcy on behalf of the Debtors (or any one of them);
- (u) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations; and
- (v) and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors (or any one of them), and without interference from any other Person.

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

5. THIS COURT ORDERS that (i) the Debtors, (ii) all of their 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

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bodies or agencies, or other entities having notice of this Order, including, but not limited to the Ontario College of Pharmacists, the Ministry of Health and Long-Term Care, the Ontario Drug Benefit Program and any insurance company (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.

6. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any client records and prescription information ("Client Records"), books, documents, securities, contracts, orders, billing privileges, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors (or any one of them), 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, subject to Paragraph 7A herein, 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 6 or in paragraph 7 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.

6A. THIS COURT ORDERS that, should the Receiver deem it necessary to seek from any insurance company or its pharmacy benefits manager personal information regarding persons covered pursuant to benefit plans which might have had claims under such plans relating to the Debtors (or any one of them), such information shall be sought pursuant to a motion on notice to the insurance company and its pharmacy benefits manager. Such information shall only be released by the insurance company or its pharmacy benefits manager on the agreement of such insurance company or as provided in the Order so obtained.

7. 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

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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.

7A. THIS COURT ORDERS that with respect to the Client Records, the Receiver shall: (i) take all steps reasonably necessary to maintain the integrity of the confidential aspects of the Client Records; (ii) if necessary, appoint a pharmacist licensed and qualified to practice in the Province of Ontario to act as custodian (the "Custodian") for the Client Records; (iii) not allow anyone other than the Receiver or the Custodian to have access to the Client Records; and (iv) allow the Debtors (or any one of them) supervised access to the Client Records for any purposes required pursuant to the *Regulated Health Professions Act, 1991*, the *Pharmacy Act, 1991* or any other governing Ontario or Canadian statute that requires the Debtors (or any one of them), from time to time, to perform certain obligations.

8. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

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**NO PROCEEDINGS AGAINST THE RECEIVER**

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

**NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY**

10. THIS COURT ORDERS that no Proceeding against or in respect of the Debtors (or any one of them) or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors (or any one of them) or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

11. THIS COURT ORDERS that all rights and remedies against the Debtors (or any one of them), the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors (or any one of them) to carry on any business which the Debtors is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors (or any one of them) from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

**NO INTERFERENCE WITH THE RECEIVER**

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

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**CONTINUATION OF SERVICES**

13. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtors (or any one of them) 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, claims processing services, payment processing services, payroll services, insurance, transportation services, utility or other services to the Debtors (or any one of them) 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 applicable 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 Order Date are paid by the Receiver in accordance with normal payment practices of the applicable 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**

14. 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 Order Date 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**

15. THIS COURT ORDERS that all employees of the Debtors (or any one of them) shall remain the employees of the Debtors (or any one of them) until such time as the Receiver, on the applicable Debtor's (or Debtors') behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer

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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**

16. 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 applicable Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

17. THIS COURT ORDERS that, pursuant to section 42 of the Ontario *Personal Health Information Protection Act* ("PHIPA"), the Receiver shall only disclose personal health information to prospective purchasers or bidders who are potential successor(s) to the pharmacy business of the Debtors (or any one of them) (the "Pharmacy") as Health Information Custodian(s) (as defined in the PHIPA) for the purposes of allowing the potential successor to assess and evaluate the operations of the Pharmacy. Each potential successor to whom such personal health information is disclosed is required in advance of such disclosure to review and sign an acknowledgement of this Order indicating that it agrees to keep the information confidential and secure and not to retain any of the information longer than is necessary for the purposes of the assessment or evaluation, and if such potential successor does not complete a Sale, such potential successor shall return all such information to the Receiver, or in the alternative shall destroy all such information. Such acknowledgement shall be deemed to be an agreement between the Receiver and the potential successor for the purposes of section 42 of PHIPA.

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**LIMITATION ON ENVIRONMENTAL LIABILITIES**

18. 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**

19. 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**

20. 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

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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.

21. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

22. 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**

23. 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 \$600,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

24. 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.

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

26. 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**

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

28. 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 applicable Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the applicable 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.

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**ALLOCATION**

29. THIS COURT ORDERS that any interested party may apply to this Court on notice to any other party likely to be affected, for an order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the various Debtors and their assets comprising the Property

**GENERAL**

30. 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.

31. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors (or any one of them).

32. 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.

33. 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.

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

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35. 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.

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



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ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

FEB 05 2021

PER / PAR:



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

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

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

1. THIS IS TO CERTIFY that msi Spergel inc., the Receiver (the "Receiver") of the assets, undertakings and properties of 4231 Sheppard Avenue East Inc., Bless Hui Pharma Inc., JG Windsor Inc., JM Westview Pharma Inc., Jubilee Property Investments Inc., Maple Medi Pharma Inc., River Hill Pharmacy Ltd., SJ East Pharma Inc., St. Mary Cooksville Pharma Inc., St. Mary Theotokos Pharma Inc., Stoney Creek Pharma Inc., Toronto Apothecary Pharma Inc., Westway Holdings Inc., and Olde Walkerville Holdings Inc. (collectively the "Debtors") acquired for, or used in relation to businesses carried on by the Debtors, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the \_\_\_ day of \_\_\_\_\_, 2021 (the "Order") made in an action having Court file number CV-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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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 \_\_\_\_\_, 2021.

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

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

Name:

Title:

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1951584 ONTARIO INC. et al.  
Applicants

and BLESS HUI PHARMA INC., et al.  
Respondents

Court File No: CV-20-00650853-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Commercial List)**

Proceeding commenced at Toronto

**ORDER  
(AMENDED AND RESTATED RECEIVERSHIP ORDER)**

**MILLER THOMSON LLP**  
Scotia Plaza  
40 King Street West, Suite 5800  
P.O. Box 1011  
Toronto, ON Canada M5H 3S1

Jeffrey C. Carhart, LSO#: 40947B  
Email: jcarhart@millerthomson.com

Asim Iqbal, LSO#: 61884B  
Email: aiqbal@millerthomson.com

Lawyers for the Applicants

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**SCHEDULE "B" – LEGAL DESCRIPTION OF LANDS**

PIN 12107-0041 (LT)

Unit 41, Level 1, Metro Toronto Condominium Plan No. 1107 and its appurtenant interest; subject to and together with easements as set out in Schedule C.









10. All shared facilities agreements, reciprocal and/or cost sharing agreements, all other agreements, easements and rights-of-way provided, in each case, the terms and conditions of each such agreement have been complied with in all material respects and do not materially adversely affect the use of the Purchased Assets.

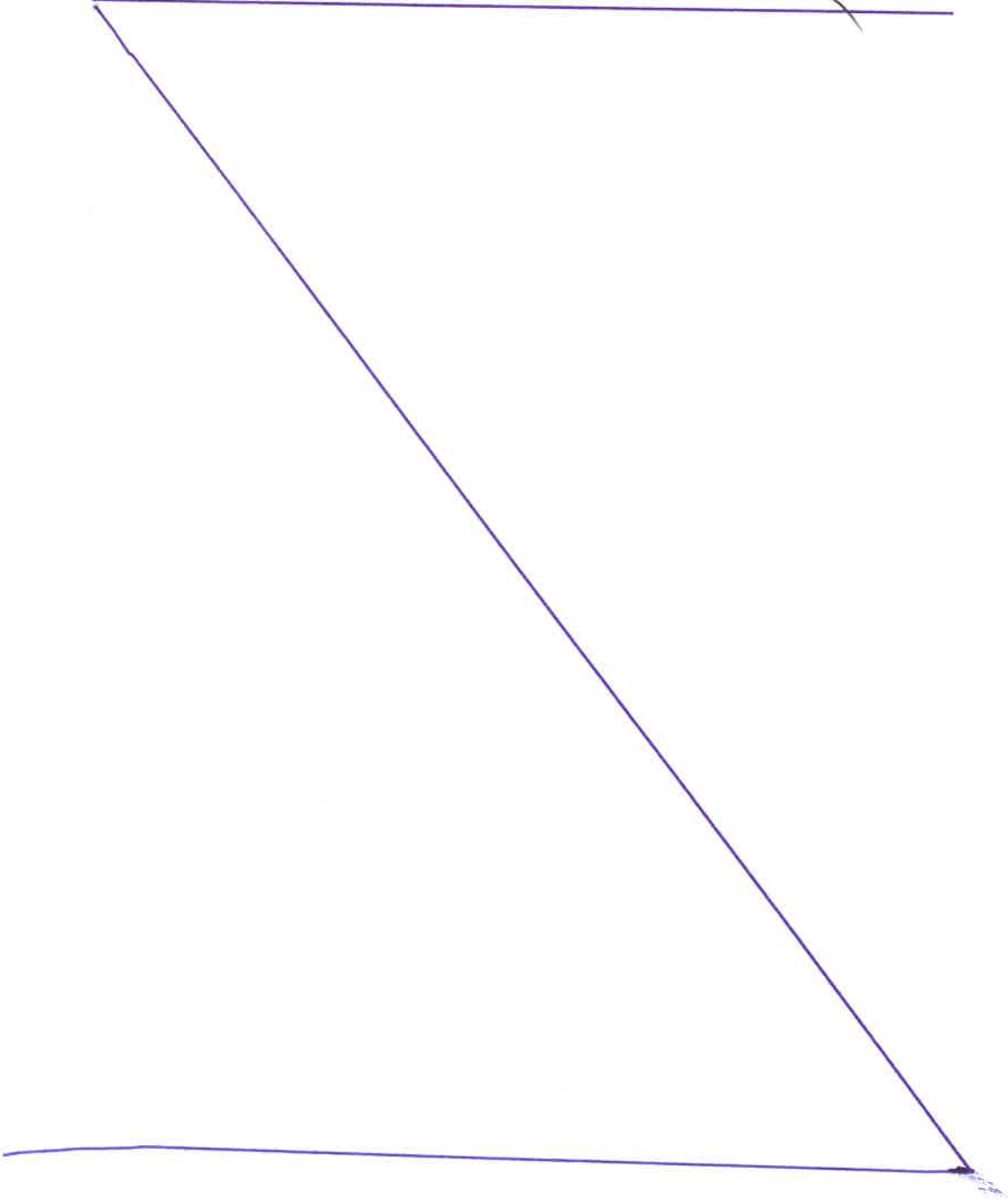
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**SCHEDULE "D" – FORM OF APPROVAL AND VESTING ORDER**

SEE ATTACHED 9 PAGES *JK*



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*MSI* **SCHEMED - DRAFT FORM OF APPROVAL AND VESTING ORDER**

Court File No. CV-20-00650853-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE • ) • , THE •  
JUSTICE • ) DAY OF • , 2021

B E T W E E N:

1951584 Ontario Inc. (formerly DESANTE FINANCIAL SERVICES INC.) and  
CWB MAXIUM FINANCIAL INC.

Applicants

- and -

4231 SHEPPARD AVENUE EAST INC., ABU SEIFEIN BRIMLEY PHARMA INC., BLESS  
HUI PHARMA INC., JG WINDSOR INC., JM WESTVIEW PHARMA INC., JUBILEE  
PROPERTY INVESTMENTS INC., MAPLE MEDI PHARMA INC., RIVER HILL  
PHARMACY LTD., SJ EAST PHARMA INC., ST. MARY COOKSVILLE PHARMA INC.,  
ST. MARY THEOTOKOS PHARMA INC., STONEY CREEK PHARMA INC., TORONTO  
APOTHECARY PHARMA INC., WESTWAY HOLDINGS INC. AND OLDE  
WALKERVILLE HOLDINGS INC.

Respondents

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by msi Spergel Inc. in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of the Respondents, including 4231 Sheppard Avenue East Inc. (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and • (the "Purchaser") dated • and appended to the • Report of the Receiver dated • (the "• Report"), and vesting in the Purchaser the Debtor's right,

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title and interest in and to the assets described in the Sale Agreement (the “**Purchased Assets**”), was heard this day by videoconference by reason of the COVID-19 pandemic.

ON READING the Report and on hearing the submissions of counsel for the Receiver, and counsel for • , no one appearing for any other person on the service list, although properly served as appears from the affidavit of service, filed:

1. THIS COURT ORDERS that the time for service of the motion record in respect of this motion and the • Report is hereby abridged and validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.
2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver, in its capacity as such or on behalf of the Debtor, as the case may be, is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as Schedule A hereto (the “**Receiver’s Certificate**”), all of the Debtor’s right, title and interest in and to the Purchased Assets described as such in the Sale Agreement, including those being real property as described in Schedule B hereto (as the case may be), shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by orders of this court in this proceeding; (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, as the case may be (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and

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restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. THIS COURT ORDERS that upon the registration in the Land Registry Office for the Land Titles Division of • of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property(ies) identified in Schedule B hereto (the “**Real Property**”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

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

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

7. THIS COURT ORDERS that, 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.

8. THIS COURT ORDERS that, notwithstanding:

a. the pendency of these proceedings;

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- 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.

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

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

11. THIS COURT ORDERS that this order is effective as of its date and does not need to be issued and entered.

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

Court File No. CV-20-00650853-00CL

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**COMMERCIAL LIST**

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

1951584 Ontario Inc. (formerly DESANTE FINANCIAL SERVICES INC.) and  
CWB MAXIUM FINANCIAL INC.

Applicants

- and -

4231 SHEPPARD AVENUE EAST INC., ABU SEIFEIN BRIMLEY PHARMA INC., BLESS  
HUI PHARMA INC., JG WINDSOR INC., JM WESTVIEW PHARMA INC., JUBILEE  
PROPERTY INVESTMENTS INC., MAPLE MEDI PHARMA INC., RIVER HILL  
PHARMACY LTD., SJ EAST PHARMA INC., ST. MARY COOKSVILLE PHARMA INC.,  
ST. MARY THEOTOKOS PHARMA INC., STONEY CREEK PHARMA INC., TORONTO  
APOTHECARY PHARMA INC., WESTWAY HOLDINGS INC. AND OLDE  
WALKERVILLE HOLDINGS INC.

Respondents

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable • of the Ontario Superior Court of Justice (the “**Court**”) dated •, msi Spergel Inc. was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of the Respondents, including 4231 Sheppard Avenue East Inc. (the “**Debtor**”).

B. Pursuant to an Order of the Court dated •, the Court approved the agreement of purchase and sale made as of • (the “**Sale Agreement**”) between the Receiver, the Debtor and • (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtor’s right, title and

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interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section • of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

THE RECEIVER CERTIFIES the following:

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

**msi Spergel Inc., in its capacity as Receiver of the undertaking, property and assets of 4231 Sheppard Avenue East Inc., and not in its personal capacity**

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

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**Schedule B – Description of Purchased Assets being real property**

PIN : 12107-0041(LT) (Land Registry Office No. 66)

Description: UNIT 41, LEVEL 1, METRO TORONTO CONDOMINIUM PLAN NO. 1107 AND ITS APPURTENANT INTEREST. THE DESCRIPTION OF THE CONDOMINIUM PROPERTY IS : CITY OF SCARBOROUGH, BEING: PT. LOT 41, PL.9945 AND PT. LOT 26, CONC. 2 AND PT. RD. ALLOWANCE BETWEEN LOTS 26 & 27, CONC.2 AS STOPPED UP & CLOSED BY BY-LAW 22099, REG'D AS TB477384, DES. AS PARTS 1 TO 21 (INCL.), PLAN 66R16896. S/T AND T/W EASEMENTS AS MORE PARTICULARLY DESCRIBED IN DECLARATION NO.D488130. CITY OF TORONTO

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**Schedule C – Specific Claims to be deleted and expunged from the Purchased Assets (non-limitative)**

- With respect to those Purchased Assets being real property and described in Schedule B, as the case may be:
  - •
  
- With respect to all other Purchased Assets:
  - Any Kohl & Frisch Limited security registered under *Personal Property Security Act* (Ontario) (“PPSA”) registration number 20180502 1146 1862 2090.
  - Any McKesson Canada Corporation security registered under PPSA registration number 20170321 1708 1462 0920 and 20170321 1708 1462 0921.
  - Any CWB Maxium Financial Inc. security registered under PPSA registration number 20170131 1034 1529 8037.
  - Including any assignment, as the case may be.

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**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Purchased Assets**

**(unaffected by the Vesting Order)**

➤ With respect to those Purchased Assets being real estate and described in Schedule B, as the case may be:

- any minor easements for the supply of domestic utility or telephone services to the property or adjacent properties.
- any easements for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the use of the property.
- the following encumbrances registered on title to the property based on the parcel register for the same bearing land registry office 66 PIN 12107-0041 (LT):

- |   |   |   |
|---|---|---|
| ▪ Instrument No.<br>TB477384 (by-law)   | ▪ Instrument No.<br>TB910224<br>(agreement)                                   | ▪ Instrument No.<br>66R16896 (plan<br>reference)            |
| ▪ Instrument No.<br>C955159 (notice)  | ▪ Instrument No.<br>C965899 (transfer<br>easement)                            | ▪ Instrument No.<br>D488130<br>(condominium<br>declaration) |
| ▪ Instrument No.<br>MTC1107<br>(condominium plan)                             | ▪ Instrument No.<br>D488329 (by-law)  | ▪ Instrument No.<br>D488330 (by-law)                        |
| ▪ Instrument No.<br>D489637 (by-law)  | ▪ Instrument No.<br>D798496 (by-law)  | ▪ Instrument No.<br>D856318 (notice)                        |
| ▪ Instrument No.<br>AT2144929 (notice of<br>change of<br>condominium address) | ▪ Instrument No.<br>AT2155939<br>(condominium<br>declaration<br>amendment)    | Instrument No.<br>AT2741464 (by-law)                        |
| ▪ Instrument No.<br>AT4408825 (notice of<br>change of<br>condominium address) | ▪ Instrument No.<br>AT5449388 (notice of<br>change of<br>condominium address) |   |

➤ With respect to all other Purchased Assets:

- Assumed Contracts (as defined in the Sale Agreement, as the case may be).

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# **APPENDIX 10**



Form 520 for use in the Province of Ontario

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

This is a Multiple Listing Service® Agreement OR This Listing is Exclusive EXCLUSIVE (Seller's Initials)

BETWEEN: BROKERAGE: REMAX WEST REALTY INC. BROKERAGE

96 REXDALE BLVD. TORONTO (the "Listing Brokerage") Tel. No. 416-745-2300

SELLER: msi Spergel inc., solely in its capacity as court-appointed receiver of Bless Hui Pharma Inc., o/a Hui Global Health Pharmacy (the "Seller")

In consideration of the Listing Brokerage listing the real property for sale known as Hui's Pharnasave

Q-280 Spadina Ave Toronto, ON M5T 3A5 (the "Property")

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

commencing at 12:01 a.m. on the 1 day of April, 20 21

until 11:59 p.m. on the 30 day of September, 20 21 (the "Listing Period"),

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

to offer the Property for sale at a price of:

One Dollars (\$CDN) 1.00

and upon the terms particularly set out herein, or at such other price and/or terms acceptable to the Seller. It is understood that the price and/or terms set out herein are at the Seller's personal request, after full discussion with the Listing Brokerage's representative regarding potential market value of the Property.

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

1. DEFINITIONS AND INTERPRETATIONS: For the purposes of this Agreement ("Authority" or "Agreement"):

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

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

of 4.00 % of the sale price of the Property or 2% of the sale price if the seller refers the buyer, the seller authorize

the BROKERAGE to receive a commission payment-if any-from the buyer in addition to the commission described above

for any valid offer to purchase the Property from any source whatsoever obtained during the Listing Period and on the terms and conditions set out in this Agreement OR such other terms and conditions as the Seller may accept.

INITIALS OF LISTING BROKERAGE: MS

INITIALS OF SELLER(S):

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 0.00 % of the sale price of the Property or \$1.00

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

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

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.

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

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

However, the Seller further understands and acknowledges that the Listing Brokerage shall not disclose:

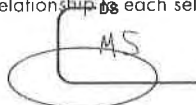
- that the Seller may or will accept less than the listed price, unless otherwise instructed in writing by the Seller;
- that the buyer may or will pay more than the offered price, unless otherwise instructed in writing by the buyer;
- the motivation of or personal information about the Seller or buyer,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

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

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

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

INITIALS OF LISTING BROKERAGE:



INITIALS OF SELLER(S):



- 4. **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's 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.
- 5. **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 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.
- 6. **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.
- 7. **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.
- 8. ~~**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.~~
- 9. **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.
- 10. **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.
- 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.
- 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

INITIALS OF LISTING BROKERAGE:



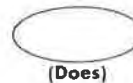
INITIALS OF SELLER(S):





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.

- 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 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.
- 17. SCHEDULE(S)** A ..... and data form attached hereto form(s) part of this Agreement.

**THE LISTING BROKERAGE AGREES TO MARKET THE PROPERTY ON BEHALF OF THE SELLER AND 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.**

DocuSigned by: [Signature] 3/22/2021 Maged Bebawy  
(Authorized to bind the Listing Brokerage) (Date) (Name of Person Signing)  
BP384830PE1545B

**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 the 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., solely in its capacity as court-appointed receiver  
(Name of Seller)

[Signature] March 24, 2021  
(Signature of Seller/Authorized Signing Officer) (Seal) (Date) (Tel. No.)

(Signature of Seller/Authorized Signing Officer) (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 Maged Bebawy  
(Name of Salesperson/Broker/Broker of Record)

hereby declares that he/she is insured as required by REBBA.

DocuSigned by: [Signature]  
(Signature of Salesperson/Broker/Broker of Record)  
BP384830PE1545B

**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 24<sup>th</sup> day of March, 2021

[Signature] March 24, 2021  
(Signature of Seller) (Date)

(Signature of Seller) (Date)

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SCHEDULE "A"

1. Notwithstanding any other provision contained in this Listing Agreement, the Seller shall only be liable to pay the commission provided for in the Listing Agreement if the purchase is completed. Maged Bebawy and RE/MAX West Realty Inc. (hereinafter, the "**Broker**" and the "**Brokerage**", respectively) acknowledge that the sale is taking place pursuant to the court order of The Honourable Justice Cavanagh made November 25, 2020 and that further court approval of the sale ("**Court Approval**") is a pre-condition to completion of the transaction. The Seller cannot guarantee that Court Approval will be obtained. The Broker and the Brokerage also acknowledge 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 the 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 and the Brokerage shall offer the Pharmacy Business for sale on an "as is, where is" basis and that neither the Broker or the Brokerage shall make representations, warranties, promises or agreements with respect to or in any way connected with the Pharmacy Business, including, without limitation, the title, description, fitness, state, condition, environmental status nor the existence of any work orders or deficiency notices affecting the Pharmacy Business.
3. Notwithstanding any other provision of this Agreement, the Vendor makes no representations or warranties regarding the Pharmacy Business, the existence of any environmental concerns applicable to the premises out which the Pharmacy Business is conducted, the existence of any insurance or its ability to enter into this listing agreement nor does the Vendor provide the Broker or the Brokerage with any indemnification regarding any such matters.
4. In the event of any conflict between the provisions of this Schedule "B" and the provisions of the pre-printed portions of the Listing Agreement, the provisions of this Schedule "B" shall override and shall govern and prevail for all purposes.
5. Any prospective purchaser agrees to use the Vendors Form of Offer which will be provided by the Broker to such prospective purchaser.
6. Any prospective purchaser and/or selling agent agrees to sign a Covid-19 Release provided by the Vendor's Agent prior to attending any tour or other viewing of the premises.
7. The terms in the Agreement with respect to the payment of commission to the Listing Brokerage through the Holdover Period do not apply in the event that there is an auction or tender of the property by the Seller subsequent to the expiry of the listing. The Seller will have no obligation to pay any commission to the Listing Brokerage in the event that the property is sold at auction or tender subsequent to the expiry of the listing.





# Listing Agreement – Commercial

## Seller Representation Agreement

### Authority to Offer for Sale

**Form 520**  
for use in the Province of Ontario

This is a **Multiple Listing Service® Agreement**



OR

This Listing is **Exclusive**



**BETWEEN:**

**BROKERAGE:** REMAX WEST REALTY INC. BROKERAGE

96 REXDALE BLVD. TORONTO (the "Listing Brokerage") Tel. No. 416-745-2300

**SELLER:** msi Spergel inc., solely in its capacity as court-appointed receiver of Maple Medci Pharma Inc., o/a Medci Pharm 2 Pharmacy (the "Seller")

In consideration of the Listing Brokerage listing the real property **for sale** known as Medi Pharm 2 Pharmacy

10-2535 Major Mackenzie Dr Maple, ON L6A (the "Property")

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

**commencing** at 12:01 a.m. on the 1 day of April, 2021

**until** 11:59 p.m. on the 30 day of September, 2021 (the "Listing Period"),

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



to offer the Property **for sale** at a price of:

One Dollars (\$CDN) 1.00

and upon the terms particularly set out herein, or at such other price and/or terms acceptable to the Seller. It is understood that the price and/or terms set out herein are at the Seller's personal request, after full discussion with the Listing Brokerage's representative regarding potential market value of the Property.

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



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

**2. COMMISSION:** In consideration of the Listing Brokerage listing the Property for sale, the Seller agrees to pay the Listing Brokerage a commission of 4.00 % of the sale price of the Property or 2% of the sale price if the seller refers the buyer, the seller authorize the **BROKERAGE** to receive a commission payment-if any-from the buyer in addition to the commission described above for any valid offer to purchase the Property from any source whatsoever obtained during the Listing Period and on the terms and conditions set out in this Agreement **OR** such other terms and conditions as the Seller may accept.

**INITIALS OF LISTING BROKERAGE:** MS

**INITIALS OF SELLER(S):** [Signature]

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 0.00 % of the sale price of the Property or \$1.00

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

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

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.

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

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

However, the Seller further understands and acknowledges that the Listing Brokerage shall not disclose:

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

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

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

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

INITIALS OF LISTING BROKERAGE:


MS

INITIALS OF SELLER(S):

[Signature]

- 4. **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's 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.
- 5. **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 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.
- 6. **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.
- 7. **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.
- 8. **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.~~
- 9. **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.
- 10. **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.
- 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.
- 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

INITIALS OF LISTING BROKERAGE:



INITIALS OF SELLER(S):





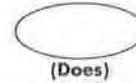
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selling of real estate during the term of the listing and thereafter. The Seller acknowledges that the information, personal or otherwise ("information"), provided to the real estate board or association may be stored on databases located outside of 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 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.
- 17. SCHEDULE(S)** A ..... and data form attached hereto form(s) part of this Agreement.

**THE LISTING BROKERAGE AGREES TO MARKET THE PROPERTY ON BEHALF OF THE SELLER AND 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 3/22/2021 Maged Bebawy  
(Authorized to bind the Listing Brokerage) (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 the 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. solely in its capacity as court-appointed receiver  
(Name of Seller)

(Signature of Seller/Authorized Signing Officer)



March 24, 2021

(Date)

(Tel. No.)

(Signature of Seller/Authorized Signing Officer)



(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)



(Date)

(Tel. No.)

**DECLARATION OF INSURANCE**

The Salesperson/Broker/Broker of Record Maged Bebawy  
(Name of Salesperson/Broker/Broker of Record)

hereby declares that he/she is insured as required by REBBA.

DocuSigned by:  
Maged Bebawy  
(Signature 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** 24<sup>th</sup> **day of** March **20** 21

(Signature of Seller)

(Date)

March 24, 2021

(Signature of Seller)

(Date)

SCHEDULE "A"

1. Notwithstanding any other provision contained in this Listing Agreement, the Seller shall only be liable to pay the commission provided for in the Listing Agreement if the purchase is completed. Maged Bebawy and RE/MAX West Realty Inc. (hereinafter, the "**Broker**" and the "**Brokerage**", respectively) acknowledge that the sale is taking place pursuant to the court order of The Honourable Justice Cavanagh made November 25, 2020 and that further court approval of the sale ("**Court Approval**") is a pre-condition to completion of the transaction. The Seller cannot guarantee that Court Approval will be obtained. The Broker and the Brokerage also acknowledge 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 the 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 and the Brokerage shall offer the Pharmacy Business for sale on an "as is, where is" basis and that neither the Broker or the Brokerage shall make representations, warranties, promises or agreements with respect to or in any way connected with the Pharmacy Business, including, without limitation, the title, description, fitness, state, condition, environmental status nor the existence of any work orders or deficiency notices affecting the Pharmacy Business.
3. Notwithstanding any other provision of this Agreement, the Vendor makes no representations or warranties regarding the Pharmacy Business, the existence of any environmental concerns applicable to the premises out which the Pharmacy Business is conducted, the existence of any insurance or its ability to enter into this listing agreement nor does the Vendor provide the Broker or the Brokerage with any indemnification regarding any such matters.
4. In the event of any conflict between the provisions of this Schedule "B" and the provisions of the pre-printed portions of the Listing Agreement, the provisions of this Schedule "B" shall override and shall govern and prevail for all purposes.
5. Any prospective purchaser agrees to use the Vendors Form of Offer which will be provided by the Broker to such prospective purchaser.
6. Any prospective purchaser and/or selling agent agrees to sign a Covid-19 Release provided by the Vendor's Agent prior to attending any tour or other viewing of the premises.
7. The terms in the Agreement with respect to the payment of commission to the Listing Brokerage through the Holdover Period do not apply in the event that there is an auction or tender of the property by the Seller subsequent to the expiry of the listing. The Seller will have no obligation to pay any commission to the Listing Brokerage in the event that the property is sold at auction or tender subsequent to the expiry of the listing.





Form 520 for use in the Province of Ontario

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

This is a Multiple Listing Service Agreement OR This Listing is Exclusive EXCLUSIVE (Seller's Initials)

BETWEEN: REMAX WEST REALTY INC. BROKERAGE

96 REXDALE BLVD. TORONTO (the "Listing Brokerage") Tel. No. 416-745-2300

SELLER: msi Spergel inc., solely in its capacity as court-appointed receiver of River Hill Pharmacy Ltd., o/a River Hill Pharmacy (the "Seller")

In consideration of the Listing Brokerage listing the real property for sale known as River Hill Pharmacy

2086 Lawrence Ave W Unit 1-2 Toronto, ON (the "Property")

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

commencing at 12:01 a.m. on the 1 day of April, 2021

until 11:59 p.m. on the 30 day of September, 2021 (the "Listing Period"),

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

(Seller's Initials)

to offer the Property for sale at a price of:

One Dollars (\$CDN) 1.00

and upon the terms particularly set out herein, or at such other price and/or terms acceptable to the Seller. It is understood that the price and/or terms set out herein are at the Seller's personal request, after full discussion with the Listing Brokerage's representative regarding potential market value of the Property

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

(Seller's Initials)

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

2. COMMISSION: In consideration of the Listing Brokerage listing the Property for sale, the Seller agrees to pay the Listing Brokerage a commission of 4.00 % of the sale price of the Property or 2% of the sale price if the seller refers the buyer, the seller authorize the BROKERAGE to receive a commission payment-if any-from the buyer in addition to the commission described above for any valid offer to purchase the Property from any source whatsoever obtained during the Listing Period and on the terms and conditions set out in this Agreement OR such other terms and conditions as the Seller may accept.

INITIALS OF LISTING BROKERAGE: MS

INITIALS OF SELLER(S):



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 0.00 % of the sale price of the Property or \$1.00

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

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

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.

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

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

However, the Seller further understands and acknowledges that the Listing Brokerage shall not disclose:

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

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

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

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

INITIALS OF LISTING BROKERAGE: 

INITIALS OF SELLER(S): 

- 4. **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's 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.
- 5. **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 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.
- 6. **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.
- 7. **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.
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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

INITIALS OF LISTING BROKERAGE:

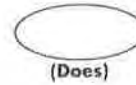


INITIALS OF SELLER(S):



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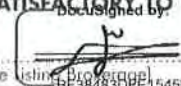
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- 13. SUCCESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms of this Agreement.
- 14. CONFLICT OR DISCREPANCY:** If there is any conflict or discrepancy between any provision 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 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.
- 17. SCHEDULE(S)** A and data form attached hereto form(s) part of this Agreement.

**THE LISTING BROKERAGE AGREES TO MARKET THE PROPERTY ON BEHALF OF THE SELLER AND 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.**

DocuSigned by:  3/22/2021 Maged Babawy  
(Authorized to bind the Listing Brokerage) (Date) (Name of Person Signing)  
BF38483DPE1545B

**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 the 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., solely in its capacity as court-appointed receiver  
(Name of Seller)

 (Signature of Seller/Authorized Signing Officer) ● March 24, 2021 (Date) [Tel. No.]

(Signature of Seller/Authorized Signing Officer) (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 Maged Babawy  
(Name of Salesperson/Broker/Broker of Record)

hereby declares that he/she is insured as required by REBBA.

DocuSigned by:  (Signature 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 24<sup>th</sup> day of March, 2021

 (Signature of Seller) (Date) March 24, 2021

(Signature of Seller) (Date)

SCHEDULE "A"

1. Notwithstanding any other provision contained in this Listing Agreement, the Seller shall only be liable to pay the commission provided for in the Listing Agreement if the purchase is completed. Maged Bebawy and RE/MAX West Realty Inc. (hereinafter, the "**Broker**" and the "**Brokerage**", respectively) acknowledge that the sale is taking place pursuant to the court order of The Honourable Justice Cavanagh made November 25, 2020 and that further court approval of the sale ("**Court Approval**") is a pre-condition to completion of the transaction. The Seller cannot guarantee that Court Approval will be obtained. The Broker and the Brokerage also acknowledge 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 the 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 and the Brokerage shall offer the Pharmacy Business for sale on an "as is, where is" basis and that neither the Broker or the Brokerage shall make representations, warranties, promises or agreements with respect to or in any way connected with the Pharmacy Business, including, without limitation, the title, description, fitness, state, condition, environmental status nor the existence of any work orders or deficiency notices affecting the Pharmacy Business.
3. Notwithstanding any other provision of this Agreement, the Vendor makes no representations or warranties regarding the Pharmacy Business, the existence of any environmental concerns applicable to the premises out which the Pharmacy Business is conducted, the existence of any insurance or its ability to enter into this listing agreement nor does the Vendor provide the Broker or the Brokerage with any indemnification regarding any such matters.
4. In the event of any conflict between the provisions of this Schedule "B" and the provisions of the pre-printed portions of the Listing Agreement, the provisions of this Schedule "B" shall override and shall govern and prevail for all purposes.
5. Any prospective purchaser agrees to use the Vendors Form of Offer which will be provided by the Broker to such prospective purchaser.
6. Any prospective purchaser and/or selling agent agrees to sign a Covid-19 Release provided by the Vendor's Agent prior to attending any tour or other viewing of the premises.
7. The terms in the Agreement with respect to the payment of commission to the Listing Brokerage through the Holdover Period do not apply in the event that there is an auction or tender of the property by the Seller subsequent to the expiry of the listing. The Seller will have no obligation to pay any commission to the Listing Brokerage in the event that the property is sold at auction or tender subsequent to the expiry of the listing.





Form 520 for use in the Province of Ontario

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

This is a Multiple Listing Service® Agreement



OR

This Listing is Exclusive



BETWEEN:

BROKERAGE: REMAX WEST REALTY INC. BROKERAGE

96 REXDALE BLVD. TORONTO (the "Listing Brokerage") Tel. No. 416-745-2300

SELLER: msi Spergel inc., solely in its capacity as court-appointed receiver of Stoney Creek Pharma Inc., o/a s Friendly Pharmacy (the "Seller")

In consideration of the Listing Brokerage listing the real property for sale known as Friendly Pharmacy

4-800 Queenston Rd Stoney Creek, ON L8G (the "Property")

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

commencing at 12:01 a.m. on the 1 day of April, 2021

until 11:59 p.m. on the 30 day of September, 2021 (the "Listing Period"),

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



to offer the Property for sale at a price of:

One Dollars (\$CDN) 1.00

and upon the terms particularly set out herein, or at such other price and/or terms acceptable to the Seller. It is understood that the price and/or terms set out herein are at the Seller's personal request, after full discussion with the Listing Brokerage's representative regarding potential market value of the Property.

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



1. DEFINITIONS AND INTERPRETATIONS: For the purposes of this Agreement ("Authority" or "Agreement"):

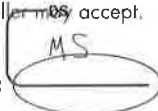
"Seller" includes vendor and a "buyer" includes a purchaser or a prospective purchaser. A purchase shall be deemed to include the entering into of any agreement to exchange, or the obtaining of an option to purchase which is subsequently exercised, or the causing of a First Right of Refusal to be exercised,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

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

of 4.00 % of the sale price of the Property or 2% of the sale price if the seller refers the buyer, the seller authorize

the BROKERAGE to receive a commission payment-if any-from the buyer in addition to the commission described above for any valid offer to purchase the Property from any source whatsoever obtained during the Listing Period and on the terms and conditions set out in this Agreement OR such other terms and conditions as the Seller may accept.

INITIALS OF LISTING BROKERAGE:



INITIALS OF SELLER(S):



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The Seller authorizes the Listing Brokerage to co-operate with any other registered real estate brokerage (co-operating brokerage), and to offer to pay the co-operating brokerage a commission of 0.00 % of the sale price of the Property or \$1.00

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

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

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.

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

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

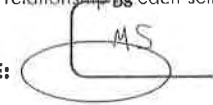
However, the Seller further understands and acknowledges that the Listing Brokerage shall not disclose:

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

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


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


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

INITIALS OF LISTING BROKERAGE: 

INITIALS OF SELLER(S): 

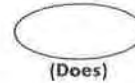
- 4. **REFERRAL OF ENQUIRIES:** The Seller agrees that during the Listing Period, the Seller shall advise the Listing Brokerage immediately of all enquiries from any source whatsoever, and all offers to purchase submitted to the Seller shall be immediately submitted to the Listing Brokerage by the Seller before the Seller accepts or rejects the same. If any enquiry during the Listing Period results in the Seller's 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.
- 5. **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 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.
- 6. **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.
- 7. **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.
- 8. **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.~~
- 9. **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.
- 10. **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.
- 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.
- 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

INITIALS OF LISTING BROKERAGE: 

INITIALS OF SELLER(S): 

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:



(Does)

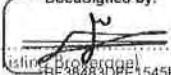


(Does Not)

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

- 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 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.
- 17. SCHEDULE(S)** ..... and data form attached hereto form(s) part of this Agreement.

**THE LISTING BROKERAGE AGREES TO MARKET THE PROPERTY ON BEHALF OF THE SELLER AND 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.**

DocuSigned by:  3/22/2021 Maged Babawy  
(Authorized to bind the Listing Brokerage) (Date) (Name of Person Signing)  
BF38483DPE1545B

**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 the 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. solely in its capacity as court-appointed receiver  
(Name of Seller)

 (Signature of Seller/Authorized Signing Officer) ● (Seal) March 27, 2021 (Date) (Tel. No.)

(Signature of Seller/Authorized Signing Officer) (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 ..... Maged Babawy  
(Name of Salesperson/Broker/Broker of Record)

hereby declares that he/she is insured as required by REBBA.

DocuSigned by:  (Signature of Salesperson/Broker/Broker of Record)  
BF38483DPE1545B

**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 24th day of March, 2021**

 (Signature of Seller) (Date) March 24, 2021

(Signature of Seller) (Date)

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SCHEDULE "A"

1. Notwithstanding any other provision contained in this Listing Agreement, the Seller shall only be liable to pay the commission provided for in the Listing Agreement if the purchase is completed. Maged Bebawy and RE/MAX West Realty Inc. (hereinafter, the "**Broker**" and the "**Brokerage**", respectively) acknowledge that the sale is taking place pursuant to the court order of The Honourable Justice Cavanagh made November 25, 2020 and that further court approval of the sale ("**Court Approval**") is a pre-condition to completion of the transaction. The Seller cannot guarantee that Court Approval will be obtained. The Broker and the Brokerage also acknowledge 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 the 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 and the Brokerage shall offer the Pharmacy Business for sale on an "as is, where is" basis and that neither the Broker or the Brokerage shall make representations, warranties, promises or agreements with respect to or in any way connected with the Pharmacy Business, including, without limitation, the title, description, fitness, state, condition, environmental status nor the existence of any work orders or deficiency notices affecting the Pharmacy Business.
3. Notwithstanding any other provision of this Agreement, the Vendor makes no representations or warranties regarding the Pharmacy Business, the existence of any environmental concerns applicable to the premises out which the Pharmacy Business is conducted, the existence of any insurance or its ability to enter into this listing agreement nor does the Vendor provide the Broker or the Brokerage with any indemnification regarding any such matters.
4. In the event of any conflict between the provisions of this Schedule "B" and the provisions of the pre-printed portions of the Listing Agreement, the provisions of this Schedule "B" shall override and shall govern and prevail for all purposes.
5. Any prospective purchaser agrees to use the Vendors Form of Offer which will be provided by the Broker to such prospective purchaser.
6. Any prospective purchaser and/or selling agent agrees to sign a Covid-19 Release provided by the Vendor's Agent prior to attending any tour or other viewing of the premises.
7. The terms in the Agreement with respect to the payment of commission to the Listing Brokerage through the Holdover Period do not apply in the event that there is an auction or tender of the property by the Seller subsequent to the expiry of the listing. The Seller will have no obligation to pay any commission to the Listing Brokerage in the event that the property is sold at auction or tender subsequent to the expiry of the listing.





# Listing Agreement – Commercial

## Seller Representation Agreement

### Authority to Offer for Sale

**Form 520**  
for use in the Province of Ontario

This is a **Multiple Listing Service® Agreement**  **OR** This Listing is **Exclusive** 

**BETWEEN:**  
**BROKERAGE:** REMAX WEST REALTY INC. BROKERAGE

96 REXDALE BLVD. TORONTO (the "Listing Brokerage") Tel. No. 416-745-2300

**SELLER:** msi Spergel inc., solely in its capacity as court-appointed receiver of Toronto Apothecary Pharma Inc., o/a The Apothecary Shop (the "Seller")


In consideration of the Listing Brokerage listing the real property **for sale** known as The Apothecary Shop Pharmacy

842 Markham Rd Scarborough, ON M1H 2Y2 (the "Property")

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


**commencing** at 12:01 a.m. on the 1 day of April, 2021

**until** 11:59 p.m. on the 30 day of September, 2021 (the "Listing Period"),

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

to offer the Property **for sale** at a price of:  
One Dollars (\$CDN) 1.00

and upon the terms particularly set out herein, or at such other price and/or terms acceptable to the Seller. It is understood that the price and/or terms set out herein are at the Seller's personal request, after full discussion with the Listing Brokerage's representative regarding potential market value of the Property.

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

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

**2. COMMISSION:** In consideration of the Listing Brokerage listing the Property for sale, the Seller agrees to pay the Listing Brokerage a commission of 4.00 % of the sale price of the Property or 2% of the sale price if the seller refers the buyer, the seller authorize the BROKERAGE to receive a commission payment-if any-from the buyer in addition to the commission described above for any valid offer to purchase the Property from any source whatsoever obtained during the Listing Period and on the terms and conditions set out in this Agreement **OR** such other terms and conditions as the Seller may accept.

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

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 0.00 % of the sale price of the Property or \$1.00

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

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

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.

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

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

However, the Seller further understands and acknowledges that the Listing Brokerage shall not disclose:

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

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

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

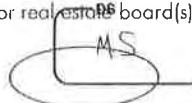
**MULTIPLE REPRESENTATION AND CUSTOMER SERVICE:** The Seller understands and agrees that the Listing Brokerage also provides representation and customer service to other sellers and buyers. If the Listing Brokerage represents or provides customer service to more than one seller or buyer for the same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

INITIALS OF LISTING BROKERAGE: 

INITIALS OF SELLER(S): 

- 4. **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's 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.
- 5. **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 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.
- 6. **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.
- 7. **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.
- 8. **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.~~
- 9. **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.
- 10. **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.
- 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.
- 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<sup>®</sup> Listing, to placement of the listing information and sales information by the Brokerage into the database(s) of the MLS<sup>®</sup> 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<sup>®</sup> 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<sup>®</sup> 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<sup>®</sup> 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<sup>®</sup> 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

INITIALS OF LISTING BROKERAGE:

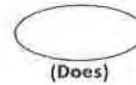


INITIALS OF SELLER(S):



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.

- 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 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.
- 17. SCHEDULE(S)** ..... and data form attached hereto form(s) part of this Agreement.

**THE LISTING BROKERAGE AGREES TO MARKET THE PROPERTY ON BEHALF OF THE SELLER AND 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.**

DocuSigned by: 3/22/2021 Maged Babawy  
(Authorized to bind the listing) (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 the 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., solely in its capacity as court-appointed receiver  
(Name of Seller)

March 24, 2021  
(Signature of Seller/Authorized Signing Officer) (Seal) (Date) (Tel. No.)

(Signature of Seller/Authorized Signing Officer) (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 ..... Maged Babawy  
(Name of Salesperson/Broker/Broker of Record)

hereby declares that he/she is insured as required by REBBA.

DocuSigned by: .....  
(Signature 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 24th day of March, 2021**

March 24, 2021  
(Signature of Seller) (Date)

(Signature of Seller) (Date)

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SCHEDULE "A"

1. Notwithstanding any other provision contained in this Listing Agreement, the Seller shall only be liable to pay the commission provided for in the Listing Agreement if the purchase is completed. Maged Bebawy and RE/MAX West Realty Inc. (hereinafter, the "**Broker**" and the "**Brokerage**", respectively) acknowledge that the sale is taking place pursuant to the court order of The Honourable Justice Cavanagh made November 25, 2020 and that further court approval of the sale ("**Court Approval**") is a pre-condition to completion of the transaction. The Seller cannot guarantee that Court Approval will be obtained. The Broker and the Brokerage also acknowledge 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 the 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 and the Brokerage shall offer the Pharmacy Business for sale on an "as is, where is" basis and that neither the Broker or the Brokerage shall make representations, warranties, promises or agreements with respect to or in any way connected with the Pharmacy Business, including, without limitation, the title, description, fitness, state, condition, environmental status nor the existence of any work orders or deficiency notices affecting the Pharmacy Business.
3. Notwithstanding any other provision of this Agreement, the Vendor makes no representations or warranties regarding the Pharmacy Business, the existence of any environmental concerns applicable to the premises out which the Pharmacy Business is conducted, the existence of any insurance or its ability to enter into this listing agreement nor does the Vendor provide the Broker or the Brokerage with any indemnification regarding any such matters.
4. In the event of any conflict between the provisions of this Schedule "B" and the provisions of the pre-printed portions of the Listing Agreement, the provisions of this Schedule "B" shall override and shall govern and prevail for all purposes.
5. Any prospective purchaser agrees to use the Vendors Form of Offer which will be provided by the Broker to such prospective purchaser.
6. Any prospective purchaser and/or selling agent agrees to sign a Covid-19 Release provided by the Vendor's Agent prior to attending any tour or other viewing of the premises.
7. The terms in the Agreement with respect to the payment of commission to the Listing Brokerage through the Holdover Period do not apply in the event that there is an auction or tender of the property by the Seller subsequent to the expiry of the listing. The Seller will have no obligation to pay any commission to the Listing Brokerage in the event that the property is sold at auction or tender subsequent to the expiry of the listing.



# **APPENDIX 11**

**MAGED BEBAWY**  
**Professional, Long Experience**



**RE/MAX**  
**WEST REALTY INC.**  
B R O K E R A G E  
INDEPENDENTLY OWNED AND OPERATED

## **7 Pharmacies for Sale**

### **Great Opportunities**



### ***Rare Opportunity To Own Well Established Pharmacy***

- 1- 280 Spadina Ave Q, Toronto, ON (MLS#: E5175574)**
- 2- 872 Markham Rd, Toronto, ON (MLS#: E5175574)**
- 3- 2535 Major Mackenzie Dr 10, Vaughan, ON (MLS#: N5175570)**
- 4- 2086 Lawrence Ave W 1, Toronto, ON (MLS#: W5175566)**
- 5- 800 Queenston Rd 4, Hamilton, ON (MLS#: X5175568)**
- 6- 1701 Wyandotte St E Windsor, ON (MLS#: X5175571)**
- 7- 870 Erie St E, Windsor, ON (MLS#: X5175573)**

**For additional information and instructions on how to proceed, please email- [magedrs@gmail.com](mailto:magedrs@gmail.com)**

**All Offers will be Reviewed May 1, 2021.**

**Please Do not go directly, do not disturb the staff or the pharmacist.**

**Sincerely Yours,**  
**Maged Bebawy**

*Real Estate Broker , B. Sc Civil Engineering*  
*RE/MAX WEST REALTY INC., BROKERAGE*  
*#1 At The Office 2020*  
*HALL OF FAME AWARD*  
*2013 Grand Centurion Producer award*  
*2014 & 2018 Re/Max Chairman's club award*  
*2015, 2016, 2017, 2019 & 2020 Re/Max Titan's club award*  
*Office: (416) 745-2300*

**Email: [magedrs@gmail.com](mailto:magedrs@gmail.com)**  
**[www.realestatemaestro.ca](http://www.realestatemaestro.ca)**  
**[www.linkedin.com/in/maged-bebawy-6562001b](http://www.linkedin.com/in/maged-bebawy-6562001b)**



**Philip Gennis**

---

**From:** Maged Bebawy <magedseng@yahoo.com>  
**Sent:** August 1, 2021 11:50 PM  
**To:** Philip Gennis  
**Subject:** 7 Pharmacies for sale , For The Best Offer - By Msi Spergel Inc., Solely In Its Capacity  
As Court-Appointed Receiver  
**Attachments:** Pharmacy Fax 7 pharmacy.pdf

1-April 01, all 7 listings were available for all real estate agents in Ontario in MLS listing system

2-April April 01, all 7 listings were available for all public in Canada at Realtor.Ca website

3-April 01, Email sent to about 800 potential buyers in Ontario by email

4-Many emails sent thought the month of April to several groups or interested buyers

5-April 08 Fax broadcast sent to 4695 pharmacies in Ontario (as attached) using Pipeline Media,  
broadcasting company

Here is the report

**BROADCAST COMPLETED**

Billing Code : MSI

Pages : 1

Total Destinations : 4692

**Successful Destinations : 4093**

Failed Destinations : 599

6- April 14 Fax broadcast sent to 4695 pharmacies in Ontario (as attached) using Pipeline Media,  
broadcasting company

Here is the report

**BROADCAST COMPLETED**

Billing Code : MSI

Pages : 1

Total Destinations : 4692

**Successful Destinations : 4242**

Failed Destinations : 450

=====

7- accepting the offer date extended to May 10,2021 to give more chance to every interested buyer to submit an offer

Best Regards,  
Maged Bebawy  
416 275 2782

Confidentiality Warning: This message and any attachments are intended only for the use of the intended recipient(s), are confidential, and may be privileged. If you are not the intended recipient, you are hereby notified that any review, retransmission, conversion to hard copy, copying, circulation or other use of this message and any attachments is strictly prohibited. If you are not the intended recipient, please notify the sender immediately by return e-mail, and delete this message and any attachments from your system. Thank You

# **APPENDIX 12**

Offer Information Form

Buyer Name: MUHAMMAD HAROON NOORWALA

Buyer address: 3375 EQUESTRIAN CRESCENT MISSISSAUGA ON L5M 6T3

Buyer email: mhnoorwala@yahoo.com

Buyer phone:

416 402 1574

Pharmacy name: MEDI PHARM 2 PHARMACY

Pharmacy address: 2535 MAJOR MACKENZIE DRIVE, VAUGHAN ON L6A 1C6

Offer Price:

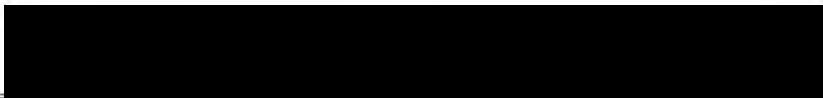


Offer status:

a) Unconditional offer ( )

b) Conditional offer ( ✓ ) See Schedule "D"

Attached deposit amount:



Deposit return address:

3375 EQUESTRIAN CRESCENT  
MISSISSAUGA ON  
L5M 6T3

*mmw*

**PHARMACY PURCHASE AGREEMENT**

**MAPLE MEDI PHARMA INC., O/A MEDI PHARM 2 PHARMACY**

**THIS AGREEMENT** is made as of the 03 day of MAY, 2021.

**BETWEEN:**

**MSI SPERGEL INC.**, solely in its capacity as court-appointed Receiver of all of the property and assets of Maple Medi Pharma Inc., o/a Medi Pharm 2 Pharmacy (the "**Company**") and not in any other capacity and with no personal or corporate liability

(hereinafter called the "**Vendor**")

**OF THE FIRST PART**

- and -

MUHAMMAD HAROON NOORWALA

(hereinafter called the "**Purchaser**")

(TO BE INCORPORATED)

**OF THE SECOND PART**

**RECITALS:**

Whereas:

- A. Pursuant to the Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) in Court File No. CV-20-00650853-00CL ( the "**Proceedings**"), dated November 25, 2020 as amended and re-stated by a further Order of the Court dated February 3, 2021 (the "**Appointment Order**"), the Vendor was appointed as Receiver of all the assets, property and undertaking (the "**Assets**") of the Company
- B. Pursuant to the Appointment Order, the Vendor is authorized to sell the Assets and apply for an order of the Court approving the sale of the Assets and vesting title to the Assets in the Purchaser.
- C. Subject to an order being issued by the Court approving the sale of the Purchased Assets (defined herein) and pursuant to the terms of this Agreement, the Purchaser has offered to purchase the Purchased Assets and the Vendor has accepted such an offer on the terms and conditions contained herein.

**NOW THEREFORE IN CONSIDERATION** of the premises and the mutual agreements in this Agreement, and for other consideration (the receipt and sufficiency of which are acknowledged by each Party), the Parties agree as follows.

*MHN*

**ARTICLE 1  
INTERPRETATION**

**1.1 Definitions**

In this Agreement:

**"Agreement"** means this asset purchase agreement resulting from the acceptance, by the Vendor, of the offer provided for in Section 6.9 and all Schedules attached hereto and the terms "hereof" and "hereto" refer to this Agreement as a whole and references to "Section" and "subsection" mean the relevant section or subsection of this Agreement unless the context specifically indicates otherwise;

**"Applicable Law"** means any domestic or foreign statute, law (including the common law), ordinance, rule, regulation, restriction, regulatory policy or guideline, by-law (zoning or otherwise), or Order, or any consent, exemption, approval or License of any Governmental Authority, that applies in whole or in part to the Transaction, the Vendor, the Purchaser, the Company, the Business, the manner in which the Business is carried on or to any of the Purchased Assets;

**"Appointment Order"** means the order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice dated November 25, 2020, appointing the Vendor as Receiver of all of the assets, property and undertaking of the Company, including the Purchased Assets, pursuant to section 243 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.43, as amended (the "CJA")

**"Approval Order"** means an order or orders of the Court in a form substantially in accordance with Schedule A authorizing and approving the Transaction contemplated under this Agreement (and which Order may, at the option of the Vendor, be combined, in one Order, with the Vesting Order);

**"Assets"** has the meaning given in recital A;

**"BIA"** means the *Bankruptcy and Insolvency Act* of Canada as the same may be amended from time to time;

**"Business"** means the retail pharmacy business of the Company;

**"Business Day"** means a day other than a Saturday or Sunday, on which Canadian chartered banks are open for the transaction of domestic business in Toronto, Ontario;

**"Claims"** shall have the meaning ascribed thereto in the Vesting Order;

**"Closing"** means the completion of the sale to, and purchase by the Purchaser of, the Purchased Assets in accordance with the terms of this Agreement;

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**"Closing Date"** means ten (10) Business Days after the Court grants the Approval Order and the Vesting Order or such other date as the parties hereto agree to in writing;

**"Closing Document"** means any document delivered at or subsequent to the Closing Time as provided in or pursuant to this Agreement;

**"College"** means the Ontario College of Pharmacists;

**"Company"** has the meaning given in the listing of the Parties of the First Part;

**"Contracts"** means the full benefit and advantage of all contracts, agreements and entitlements of the Company relating to the Business [other than the interest of any of the Company in any of the Accounts Receivable, the Inventory, the Fixed Assets, the Equipment Leases, the Goodwill, the Records, Intellectual Property, and/or the leasehold interest of the Company in the Premises];

**"Closing Time"** means 10:00 am Toronto time on the Closing Date or such other time on the Closing Date as the Parties agree in writing that the Closing shall take place;

**"Court"** means the Ontario Superior Court of Justice (Commercial List);

**"Deposit"** has the meaning set out in Section 2.3;

**"Encumbrances"** shall have the meaning ascribed to thereto in the Vesting Order;

**"Excluded Assets"** means (i) any Assets not specifically included as part of the Purchased Assets, and (ii) for greater certainty, includes the Real Property, bank accounts of the Company, cash on hand or cash equivalents at Closing;

**"Fixed Assets"** means all of the fixed assets, machinery, equipment, computers, furniture, furnishings and vehicles owned by the Company together with all operating manuals, maintenance logs, and equipment drawings and specifications in the possession of the Vendor;

**"Goodwill"** means the goodwill of the Company included in the Purchased Assets, including the right to carry on its Business as successor thereto and the use of all telephone numbers and facsimile numbers used in its Business, patient lists and related prescription lists, trade name and customer and supplier lists;

**"Governmental Authority"** means any domestic or foreign government whether federal, provincial, state or municipal and any governmental agency, governmental authority, governmental tribunal or governmental commission of any kind whatever;

**"including"** means **"including without limitation"** and the term **"including"** shall not be construed to limit any general statement which it follows to the specific or similar items or matters immediately following it;

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- “Intellectual Property”** means all of the patents, trade names, trademarks and other intellectual property and the Goodwill appurtenant thereto to the extent same comprises property of the Company included in the Purchased Assets as of the Closing Date, any and all other patents, trade names, trademarks and other intellectual property and the goodwill appurtenant thereto together with all documents, drawings, and technical data in the possession of the Vendor;
- “Inventory”** means – subject to the reconciliation provisions hereof (including Section 5.3) - all inventories of every kind and nature and wheresoever situated of our relating to the Business including, but not limited to , pharmaceuticals, over-the-counter medications, front-of-counter sundries, tobacco products but does not, if applicable, include lottery tickets or related products.
- “Inventory Valuation”** has the meaning set out in Section 5.3;
- “Lease”** means the lease between the Vendor and the landlord of the Premises, which is occupied by the Company pursuant to the lease disclosed to the Purchaser in the data room for the sale process;
- “License”** means any license, permit, approval, right, privilege, concession or franchise in respect of the Business;
- “Listing Broker”** means Maged Bebawy or another representative of REMAX West Realty Inc.
- “Order”** means any order (draft or otherwise), judgment, injunction, decree, award or writ of any court, tribunal, arbitrator, Governmental Authority, or other Person;
- “Parties”** means the Purchaser and the Vendor collectively, and **“Party”** means any one of them;
- “Permitted Encumbrances”** shall mean those encumbrances listed in the Approval and Vesting Order attached as Schedule “A”
- “Person”** or **“person”** shall be broadly interpreted and includes an individual, body corporate, partnership, joint venture, trust, association, unincorporated organization, the Crown, any Governmental Authority or any other entity recognized by law;
- “Premises”** means the premises as listed in Schedule B;
- “Purchase Price”** means the purchase price payable for the Purchased Assets pursuant to Section 2.2 ;
- “Purchased Assets”** means, subject to the terms hereof (including the terms with respect to reconciliation of Inventory), all of the interest of the Company in the retail pharmacy business, including but not limited to Fixed Assets, Intellectual Property, the Lease, and Inventory, but not including any Excluded Assets;

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**“Related Person”** has the meaning in the *Bankruptcy and Insolvency Act*, 1985, c. B-3, as amended;

**“Records”** means all of the records relating exclusively to the Business consisting of operating data, files, books and records, correspondence, materials and contract documents;

**“Transaction”** means the transaction of purchase and sale contemplated pursuant to this Agreement;

**“Vesting Order”** means an order or orders of the Court in a form substantially in accordance with Schedule A ordering that the right, title and interest of the Company in the Purchased Assets be vested in the Purchaser free and clear of any right, title or interest of Claims and Encumbrances, except for Permitted Encumbrances.

## **1.2 Statutes**

Unless specified otherwise, reference in this Agreement to a statute refers to that statute as it may be amended or to any restated or successor legislation of comparable effect.

## **1.3 Headings**

The division of this Agreement into articles, Sections, subsections and schedules and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

## **1.4 Number and Gender**

In this Agreement, words in the singular include the plural and vice-versa and words in one gender include all genders.

## **1.5 Entire Agreement**

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of or between the Parties.

## **1.6 Amendment**

This Agreement may only be amended, modified or supplemented by a written agreement signed by each Party.

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**1.7 Waiver of Rights**

Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

**1.8 Schedules**

The following Schedules form part of this Agreement:

- Schedule A - Form of Approval and Vesting Order
- Schedule B - Addresses of Premises
- Schedule C - Purchase Price Allocation

**1.9 Applicable Law**

This Agreement shall be governed by, and interpreted and enforced in accordance with, the laws in force in Ontario (excluding any conflict of laws, rule or principle which might refer such interpretation to the laws of another jurisdiction). Each Party irrevocably submits to the exclusive jurisdiction of the Court with respect to any matter arising hereunder or related hereto.

**1.10 Currency**

Unless specified otherwise, all statements of or references to dollar amounts in this Agreement are to Canadian dollars.

**1.11 Third Party Beneficiaries**

Nothing in this Agreement or in any Closing Document is intended expressly or by implication to, or shall, confer upon any Person other than the Parties, any rights or remedies of any kind.

**ARTICLE 2  
PURCHASE AND SALE**

**2.1 Purchase and Sale of Purchased Assets**

- (a) The Vendor shall sell, assign and transfer to the Purchaser and the Purchaser shall purchase the Purchased Assets on the Closing Date pursuant to the Vesting Order and the Purchaser shall pay the Purchase Price on the Closing Date, subject to the terms and conditions contained in this Agreement.

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(b) The Purchaser hereby acknowledges to and in favour of the Vendor that the Purchaser has conducted its own investigations and inspections of the Purchased Assets and that the Purchaser is responsible to conduct its own inspections and investigations of all matters and things connected with or in any way related to the Purchased Assets, that the Purchaser has satisfied itself with respect to the Purchased Assets and all matters and things connected with or in any way related to the Purchased Assets, that the Purchaser has relied entirely upon its own investigation and inspections in entering into this Agreement, that the Purchaser is purchasing the Purchased Assets on an "as is, where is" basis as at the Closing Date, that the Purchaser will accept the Purchased Assets in their state, condition and location on Closing and that the Purchaser hereby acknowledges that the Vendor has made no representations, warranties, statements or promises, including as to the compliance with any Applicable Laws affecting the Transaction, save and except as are expressly contained in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties and representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) do not apply to the sale of the Purchased Assets and have been waived by the Purchaser. Except as expressly set out in this Agreement, no adjustment shall be allowed to the Purchaser for any changes in condition, quality or quantity of the Purchased Assets to and including the Closing Date. Except as specifically contemplated and provided for in this Agreement, the Purchaser acknowledges that the Vendor is not required to inspect or count, or provide any inspection or counting, of the Purchased Assets or any parts thereof and the Purchaser shall be deemed, at its own expense, to have relied entirely upon its own inspection and investigation of the Purchased Assets. Nothing contained herein shall require the Vendor, following Closing, to take possession of, protect, preserve, or otherwise safeguard any Purchased Assets.

(c) The Purchaser acknowledges and agrees that any and all information relating to the Purchased Assets (including any environmental report(s), if any, or any information memorandum given by the Vendor, the Company, or any other person to the Purchaser) was delivered to the Purchaser solely for the Purchaser's convenience and there is no representation or warranty of any kind whatsoever made by the Vendor nor the Company or any other person with respect to the accuracy or completeness of any such information.

The descriptions of any of the Purchased Assets contained on the Schedules appended hereto are for the purposes of identification only and the Vendor is not liable for any error or omission in such Schedules.

(d) The Purchaser acknowledges that it shall be the Purchaser's sole responsibility to obtain, at its own expense, and the Purchaser shall use its best efforts to obtain, any consents, approvals or any further documentation or assurances which may be required to be obtained by Purchaser (but not the Company or Vendor) to carry out the terms of this Agreement. Notwithstanding the foregoing, the

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Vendor agrees to do such acts and shall execute such further documents, conveyances, deeds, assignments, transfers and the like, and will cause the doing of such acts and will cause the execution of such further documents as are within its power and as the Purchaser may reasonably request be done and or executed, in order to carry out the terms of this Agreement, but in so doing, shall not be required to incur any expense or liability (except as the Vendor in its absolute discretion sees fit).

- (e) The Purchaser shall assume, at its own cost, complete responsibility for compliance with all Applicable Laws in connection with the Purchased Assets, or the use thereof by the Purchaser, after the Closing Date.
- (f) The Purchaser shall be responsible for making all necessary arrangements for continued occupation of the Premises as assignee pursuant to the Lease.

## 2.2 Purchase Price & Purchased Assets

The Purchase Price for the Purchased Assets (save and except inventory as defined herein) as apportioned by the Purchaser on Appendix C (not including all applicable taxes, for which the Purchaser shall also be liable in accordance with Section 2.5) shall be CDN [REDACTED]

## 2.3 Payment of Purchase Price

The Purchaser shall pay the Purchase Price to the Vendor as follows:

- (a) the sum of CDN \$ [REDACTED] shall be paid by wire transfer, delivery of certified funds or bank draft payable to the Vendor "in Trust", with the submission of this Agreement by the Purchaser to the Vendor and held by the Vendor as a deposit (the "Deposit") which shall be dealt with in accordance with Section 2.4; and
- (b) the balance of the Purchase Price together with the amount of the agreed inventory valuation shall be delivered to the Vendor at Closing payable in cash, by delivery of a certified cheque or bank draft or by wire transfer.

## 2.4 Deposit

- (a) The Deposit shall be paid and held in escrow by the Vendor, until the Closing Time, at which time the Deposit shall be applied on account of the Purchase Price or as otherwise provided for in this Agreement.
- (b) If this Agreement:
  - (i) is terminated or the Closing otherwise fails to occur for any reason other than a breach by the Purchaser of its obligations under this Agreement,

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then the Purchaser shall be entitled to the return of the Deposit without interest within five (5) Business Days and the Purchaser shall have no recourse against the Receiver and this Agreement shall become null and void;

- (ii) is terminated or the Closing otherwise fails to occur as a result of the breach of the Purchaser of its obligations under this Agreement, then the Vendor shall be entitled to retain the Deposit as liquidated damages, and shall be entitled to pursue all of its other rights and remedies against the Purchaser.

## 2.5 Taxes

The Purchaser shall be liable for and shall pay, in addition to the Purchase Price, all federal and provincial sales taxes and any other taxes or duties payable in connection with the conveyance and transfer of the right, title and interest, if any, of the Vendor in and to the Purchased Assets (collectively, the "Taxes") to the Purchaser and the Purchaser undertakes and agrees to pay all such Taxes on Closing – provided that the Vendor and the Purchaser agree that the appropriate elections with respect to the payment of Taxes may be made. By executing this Agreement, the Purchaser indemnifies and holds the Vendor harmless from and against any and all costs, expenses, liabilities and damages incurred or suffered by the Vendor as a result of the failure of the Purchaser to pay any of the Taxes exigible in connection with the Transaction which indemnity shall survive closing.

## 2.6 Time and Place of Closing

The Closing shall take place at the Closing at the offices of the solicitors for the Vendor or as may otherwise be agreed between the Parties in writing.

## 2.7 The Closing

### 2.7.1 Vendor's Deliveries

At Closing, the Vendor shall:

- (a) Upon the delivery of all of the Purchaser's Deliveries as set out in Article 2.7.2, execute and deliver to the Purchaser the Receiver's Certificate in the form appended as Schedule "A" to the Vesting Order;
- (b) deliver to the Purchaser the Approval Order and the Vesting Order;
- (c) deliver to the Purchaser a certificate dated as of the Closing Date, confirming that all of the representations and warranties of the Vendor contained in this

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Agreement are true as of the Closing Date, with the same effect as though made on and as of the Closing Date;

- (d) execute and deliver to the Purchaser a bill of sale in respect of the Purchased Assets on the terms contained herein, if requested; and
- (e) execute and deliver or cause to be executed and delivered such other documents, instruments or certificates as contemplated by this Agreement.

**2.7.2 Purchaser's Deliveries**

At Closing, the Purchaser shall:

- (a) deliver payment of the balance of the Purchase Price in accordance with Article 2;
- (b) execute and deliver or cause to be executed and delivered such other documents, instruments or certificates as the Vendor may reasonably request.
- (c) deliver to the Vendor an acknowledgement dated as of the Closing Date, that each of the conditions precedent in this Agreement in favour of the Purchaser have been fulfilled, performed or waived by the Purchaser as of the Closing Date;
- (d) execute and deliver or cause to be executed and delivered such other documents, instruments or certificates as contemplated by this Agreement.

**ARTICLE 3  
REPRESENTATIONS AND WARRANTIES**

**3.1 Representations and Warranties of the Vendor**

The Vendor represents and warrants to the Purchaser as follows and acknowledges that the Purchaser is relying upon such representations and warranties in entering into this Agreement:

- (a) The Vendor has been appointed Receiver of the Company pursuant to the Appointment Order.
- (b) The Vendor has done no act to dispose of or encumber any of the Purchased Assets.

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### 3.2 Representations and Warranties of the Purchaser

The Purchaser represents and warrants to the Vendor as follows and acknowledges that the Vendor is relying upon such representations and warranties in entering into this Agreement:

- (a) The Purchaser is a corporation duly incorporated, organized, and validly existing under the laws of its jurisdiction of incorporation. No proceedings have been taken or authorized by the Purchaser or, to the best of the Purchaser's knowledge, by any other Person, with respect to the bankruptcy, insolvency, liquidation, dissolution or winding up of the Purchaser.
- (b) The Purchaser has all necessary power and capacity to execute and deliver, and to observe and perform its covenants and obligations under, this Agreement and the Closing Documents to which it is a party. The Purchaser has taken all corporate action necessary to authorize the execution and delivery of, and the observance and performance of, its covenants and obligations under this Agreement and the Closing Documents to which it is or shall be a party.
- (c) This Agreement has been, and each Closing Document to which the Purchaser is a party will on Closing be, duly executed and delivered by the Purchaser, and this Agreement constitutes, and each Closing Document to which the Purchaser is a party will, on Closing, constitute, a valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms.
- (d) The Purchaser is not a non-Canadian within the meaning of the *Investment Canada Act* (Canada).

### 3.3 Interpretation

Each representation and warranty made by a Party in this Agreement shall be treated as a separate representation and warranty in respect of each statement made and the interpretation of any statement made shall not be restricted by reference to, or inference from, any other statement made in a representation and warranty of such Party.

### 3.4 Commission

Each Party represents and warrants to each other Party that no other Party will be liable for any brokerage commission, finder's fee or other similar payment in connection with the transactions contemplated hereby because of any action taken by, or agreement or understanding reached by, that Party.

**3.5 Survival of Representations and Warranties**

All representations, warranties, statements, covenants and agreements made by the Purchaser in this Agreement or any Closing Document shall survive the Closing indefinitely.

**ARTICLE 4  
CONDITIONS PRECEDENT**

**4.1 Conditions of Closing**

Either the Purchaser or the Vendor shall be obliged to complete the Closing only if each of the conditions precedent set out below in Sections 4.1.1 through 4.1.8 inclusive, has been satisfied in full at or before the Closing Time.

**4.1.1 Accuracy of Representations and Performance of Covenants**

At the Closing Time, all of the representations and warranties of each of the Purchaser and the Vendor made in or pursuant to this Agreement shall be true and correct as if made at and as of the Closing Time (regardless of the date as of which the information in this Agreement or in any schedule or other document made pursuant hereto is given) except as such representations or warranties may be affected by the appeal of any court order referred to herein. At the Closing Time, each of the Purchaser and the Vendor shall have observed or performed in all respects all of the obligations, covenants and agreements which it must perform at or before the Closing Time. Each of the Purchaser and the Vendor shall have received immediately prior to the Closing Time a certificate from the other certifying, to the best of its knowledge, information and belief (after due enquiry) that the conditions in this Section 4.1.1 to be satisfied by it have been satisfied.

**4.1.2 Litigation**

No Order shall have been entered that prohibits or restricts the Closing. Neither of the Parties, nor any of their respective directors, officers, employees, or agents, shall be a defendant or third party to or threatened with any litigation or proceedings, before any court or Governmental Authority which, in the opinion of either the Purchaser or the Vendor, acting reasonably, could prevent or restrict that Party from performing any of its obligations in this Agreement or any Closing Document, including the appeal or any threatened appeal of the Vesting Order or the Approval Order.

**4.1.4 Receipt of Closing Documentation**

All documentation relating to the sale and purchase of the Purchased Assets and such other Closing Documents relating to the due authorization and completion of the sale and purchase and all actions and proceedings taken on or prior to the Closing in connection with the performance by the Purchaser and the Vendor of their obligations under this Agreement shall be satisfactory to each of the Purchaser, the Vendor and

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their respective counsel, as applicable. Each of the Purchaser and the Vendor shall have received copies of the Closing Documents and all such documentation or other evidence as it may reasonably request in order to establish the consummation of the transactions contemplated hereby and the taking of all corporate proceedings in connection therewith in form (as to certification and otherwise) and substance satisfactory to each of the Purchaser, the Vendor and their respective counsel.

**4.1.5 Orders**

The Vendor shall have obtained the Vesting Order and the Approval Order. The Vendor shall not have received notice of appeal in respect to of the Approval Order and the Vesting Order and the Approval Order and the 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;

**4.1.6 No Removal of Purchased Assets**

The Fixed Assets or any material portion thereof, shall not have been removed from the control of the Vendor since the date of the Appointment Order, by any means or process and no party shall have taken any action to redeem any of the Fixed Assets.

**4.1.7 Cancellation of Insurance**

Except as expressly contemplated herein, all insurance maintained by the Vendor on behalf of the Company shall be cancelled by the Vendor on the Closing Date and the Purchaser shall be responsible for placing its own insurance with respect to the Business from and after the Closing Date.

**4.1.8 Assignment of the Lease**

If consent to assignment by the Vendor is required under the Lease, (i) the landlord under the Lease shall have consented to the assignment of the Lease by the Vendor to the Purchaser, or (ii) the Vendor shall have obtained an Order authorizing and compelling such assignment.

**4.2 Waiver**

Any Party may waive, by notice to the other Parties, any condition set forth in this Article 4 which is for its benefit. No waiver by a Party or any condition, in whole or in part, shall operate as a waiver of any other condition.

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### 4.3 Failure to Satisfy Conditions

If any condition set forth in Article 4 is not satisfied at the Closing Time, the Party entitled to the benefit of such condition (the "**First Party**") may terminate this Agreement by notice in writing to the other Party and in such event the Parties shall be released from all obligations hereunder.

## ARTICLE 5

### 5.1 Access

The Vendor agrees to allow the Purchaser and the Purchaser's authorized representatives accompanied by the Listing Broker, as defined herein, access to the Purchased Assets on two occasions prior to closing during normal business hours to inspect the Purchased Assets and make arrangements for closing. The Purchaser covenants and agrees to (i) repair or pay the cost of repair of any damage occasioned during and resulting from the inspection of the Purchased Assets conducted by the Purchaser or its authorized representatives, as outlined above and to return the Purchased Assets to the condition they were in prior to such inspections; and (ii) indemnify and save the Vendor harmless from and against all losses, costs, claims, third party claims, damages, expenses (including legal costs as between a solicitor and its own client) which the Vendor may suffer as a result of the inspection of the Purchased Assets conducted by the Purchaser or its authorized representatives, as outlined above or as a result of any unauthorized tests or inspections by a Government Authority. The provisions of this Section 5.1 shall survive Closing or other termination of this Agreement, notwithstanding any other provisions hereof.

### 5.2 Non-Disclosure of Transaction

The Purchaser agrees that it will not and will cause its officers, directors, employees, representatives and advisors not to, disclose or permit to be disclosed to any Person, any information relating to the Purchase Price or any of the other terms of this Agreement until after closing, other than to the equity holders of the Purchaser and Persons solicited by the Purchaser to provide financing in connection with the Transaction (and the Purchaser shall ensure, for the benefit of the Vendor, that such parties shall treat all such information in the strictest confidence and the Purchaser shall indemnify the Vendor in that regard).

### 5.3 Inventory

The Purchaser agrees that the portion of the Purchase Price allocated to Inventory shall be determined pursuant to an inventory count by a third party consultant as existing on the day prior to the Closing Date ("**Inventory Valuation**"), which shall be provided by the Vendor to the Purchaser on the day of Closing. It is expressly acknowledged and agreed that:

(a) both the Vendor and the Purchaser are entitled to observe the Inventory Valuation, but any costs incurred in so doing are for each Party's own account;

(b) the parties agree that the cost of the Inventory Valuation shall be \$1,300.00 plus HST and that the Parties shall equally bear the cost of same;

(c) the Purchaser's share of the cost of the inventory count shall be added to the amount to be paid pursuant to the Inventory Valuation;

(d) the inventory count shall take place the night before the Closing Date;

(e) the Inventory shall be valued at cost; and

(f) the sales of Inventory on the Closing Date shall be for the account of the Purchaser provided the Closing has occurred.

#### 5.4 Computers

The Purchaser shall allow the Vendor to maintain possession of such portion of the computer systems and related equipment, both hardware and software (the "Computers") as the Vendor may reasonably require for such period of time following Closing as may be reasonably required by the Vendor to complete its administration of the receivership of the Company at which time, the Vendor shall forthwith deliver up possession of the Computers to the Purchaser.

#### 5.5 Risk of Loss

Up to the time of the Closing, the Purchased Assets shall be and remain at the risk of the Vendor. If, prior to the time of the Closing, all or any material part of the Purchased Assets are substantially destroyed or damaged by fire or any other casualty or shall be expropriated, the Purchaser shall have the option, exercisable by notice in writing given within two (2) Business Days of the Purchaser receiving notice in writing from the Vendor of such destruction, damage or expropriation:

(a) to complete the purchase without reduction of the Purchase Price and all proceeds of insurance or compensation for expropriation shall be payable to the Purchaser and all right and claim of the Vendor to any such amounts not paid by the time of the Closing shall be assigned by the Vendor to the Purchaser; or

(b) of terminating this Agreement and not completing the purchase, in which case all obligations of the Purchaser and the Vendor hereunder, other than those pursuant to Section 5.1, shall terminate and the Deposit shall be returned to the Purchaser.

For greater certainty, where any damage is not substantial, the Purchaser shall be obliged to complete this Agreement, without deduction, and shall be entitled to the proceeds of insurance, if any, in connection with such damage.

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**5.6 Records**

The Purchaser agrees to maintain the Records for a period of at least seven (7) years following the Closing and shall provide access to the Vendor to such records, as the Vendor may reasonably require to complete its administration of the receivership of the Company.

**ARTICLE 6  
GENERAL**

**6.1 Expenses**

Each Party shall pay all expenses it incurs in authorizing, preparing, executing and performing any aspect of the Transaction contemplated by this Agreement, whether or not the Closing occurs, including all fees and expenses of its legal counsel, bankers, investment bankers, brokers, accountants or other representatives or consultants.

**6.2 Time**

Time is of the essence of each provision of this Agreement.

**6.3 Notices**

Any notice, demand or other communication (in this Section, a "notice") required or permitted to be given or made hereunder shall be given in writing and addressed as follows:

(a) In the case of a notice to the Vendor, addressed to it at:

MSI SPERGEL INC., in its capacity as the Court appointed Receiver of  
all of the property and assets of Maple Medi Pharma Inc.  
200-505 Consumers Road, Toronto, ON M2J 4V8  
Attention: Philip H. Gennis  
Tel.: 416-498-4325  
Fax: 416-498-4325  
Email: pgennis@spergel.ca

and with a further copy to its counsel at:

Goldman, Spring, Nash and Haber (Brendan Bissell)  
480 University Avenue, Suite 1600  
Toronto, ON M5G1V2  
Attention: Brendan Bissell  
Tel: (416) 597-6489  
Fax: (416) 597-9922  
Email: bissell@gsnh.com

(b) In the case of the Purchaser:

MR

MUHAMMAD HAROON NOORWALA  
3375 EQUESTRIAN CRESCENT  
MISSISSAUGA ON  
L5M 6T3

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

Tel.: 416-402-1574

Fax: 905-553-5564

Email: mhnoorwala@yahoo.com

and with a further copy to its counsel at:

RAJNI TEKRIWAL LAW PROFESSIONAL CORPORATION  
8760 JANE STREET, SUITE 205  
VAUGHAN ONTARIO  
L4K 2M9

Attention: RAJNI TEKRIWAL

Tel.: 905 597 8760

Fax: 905 597 8761

Email: law@tekrivals.com

Any such notice, if personally delivered, shall be deemed to have been validly and effectively given and received on the Business Day of such delivery and if sent by telecopier or other electronic communication with confirmation of transmission, shall be deemed to have been validly and effectively given and received on the Business Day next following the day it was received.

**6.4 Public Announcements / Confidentiality of Agreement**

Before the Closing Date, the Purchaser shall make no public statement or issue any press release concerning the transactions contemplated by this Agreement except as may be necessary to comply with the requirements of all Applicable Law. If any such public statement or release is so required, the Purchaser shall consult with the other Parties prior to making such statement or release, and the Parties shall use all reasonable efforts, acting in good faith, to agree upon a text for such statement or release which is satisfactory to all Parties. The Parties expressly acknowledge and agree that this Agreement shall not become public until after Closing.

**6.5 Assignment**

(a) The Purchaser may not assign any or all rights or benefits under this Agreement to any Person without the Vendor's written consent which consent shall be in

the Vendor's sole discretion. If the Purchaser wishes to assign this agreement after the grant of the Vesting Order and the Vendor consents in its sole discretion, the Purchaser shall pay all of the costs incurred by the Vendor on a solicitor and its own client scale in connection with all proceedings to amend the Approval and Vesting Order or otherwise provide for vesting in the assignee.

- (b) Except as provided in Section 6.5(a), no assignment of benefits or arrangement for substituted performance by one Party shall be of any effect.
- (c) This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors (including any successor by reason of amalgamation or statutory arrangement of any Party) and permitted assigns.

#### 6.6 Further Assurances

Each Party shall do such acts and shall execute such further documents, conveyances, deeds, assignments, transfers and the like, and will cause the doing of such acts and will cause the execution of such further documents as are within its power as any other Party may in writing at any time and from time to time reasonably request be done and or executed, in order to give full effect to the provisions of this Agreement and each Closing Document.

#### 6.7 Remedies Cumulative

The rights and remedies of the Parties under this Agreement are cumulative and in addition to and not in substitution for any rights or remedies provided by law. Any single or partial exercise by any Party hereto of any right or remedy for default or breach of any term, covenant or condition of this Agreement does not waive, alter, affect or prejudice any other right or remedy to which such Party may be lawfully entitled for the same default or breach.

#### 6.8 Counterparts

This Agreement may be executed in any number of counterparts. Each executed counterpart shall be deemed to be an original. All executed counterparts taken together shall constitute one agreement.

#### 6.9 Irrevocable Offer

This Agreement shall constitute an irrevocable offer to purchase by the Purchaser which will be open for acceptance by the Vendor until 12:00 p.m. (Eastern Time) on the 10<sup>th</sup> day of May, 2021. 2021. If this Agreement has not been fully accepted in accordance with its terms by 12:00 p.m. (Eastern Time) on the 17<sup>th</sup> day of May, 2021, such offer shall be null and void and the Purchaser shall have no obligation to the Vendor and vice versa.

*mm*

IN WITNESS WHEREOF this Agreement has been executed by the Purchaser on the 03 day of MAY, 2021.

Per: Muhammad Haseen Noorwala  
Name: MUHAMMAD HASEEN NOORWALA  
Title: PRESIDENT  
 We have the authority to bind the corporation

IN WITNESS WHEREOF this Agreement has been executed by the Vendor on the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**MSI SPERGEL INC.**, solely in its capacity as the Court appointed Receiver of Maple Medi Pharma Inc., o/a Medi Pharm 2 Pharmacy and not in any other capacity and with no personal or corporate liability

Per: \_\_\_\_\_  
Name:  
Title:  
I/We have the authority to bind the corporation

h2

**SCHEDULE A**

**Approval and Vesting Order**

*ml*



**SCHEDULE B**

**Addresses of Premises**

**10-2535 Major MacKenzie Drive, Vaughan, Ontario**

*md*

**SCHEDULE C**

**PURCHASE PRICE ALLOCATION**

Maple Medi Pharma Inc.- Prescriptions and Goodwill	\$ 725,000/=
Maple Medi Pharma Inc.- Fixtures and Equipment	\$ 75,000/=

*mad*

**SCHEDULE D**

**This offer is conditional until the fulfillment of following**

- 1- Satisfactory transfer or assignment of lease to the buyer with same terms and conditions.**
- 2- This sale is conditional on obtaining satisfactory financing to the buyer in his sole and absolute discretion.**
- 3-The buyer get approved by Ontario college of pharmacists as new pharmacy owner.**
- 4- The buyer able to obtain new ODB billing number for pharmacy from Ontario ministry of health.**
- 5-The seller shall make assignment to buyer of right to use the existing telephone and fax numbers of business being purchased.**

**The seller covenant that during the seller period of ownership of pharmacy all Ontario college of pharmacist and Ontario ministry of health laws and regulations have been complied with ; no pending litigation, no outstanding orders, investigations, charges or prosecutions regarding the pharmacy business.**

**Failing to be satisfied with any of above condition this offer shall become null and void and deposit money shall be returned to buyer in full without interest and deduction. Those conditions are included for the benefit of buyer .**

*mm*

# **APPENDIX 13**

**PHARMACY PURCHASE AGREEMENT**

**TORONTO APOTHECARY PHARMA INC. O/A THE APOTHECARY SHOP**

**THIS AGREEMENT** is made as of the 7<sup>th</sup> day of June, 2021.

**BETWEEN:**

**MSI SPERGEL INC.**, solely in its capacity as court-appointed Receiver of all of the property and assets of Toronto Apothecary Pharma Inc., o/a The Apothecary Shop (the "**Company**") and not in any other capacity and with no personal or corporate liability

(hereinafter called the "**Vendor**")

**OF THE FIRST PART**

- and -

GSV DRUGS INC. a corporation incorporated under the laws of the Province of Ontario

(hereinafter called the "**Purchaser**")

**OF THE SECOND PART**

**RECITALS:**

Whereas:

- A. Pursuant to the Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) in Court File No. CV-20-00650853-00CL ( the "**Proceedings**"), dated November 25, 2020 as amended and re-stated by a further Order of the Court dated February 3, 2021 (the "**Appointment Order**"), the Vendor was appointed as Receiver of all the assets, property and undertaking (the "**Assets**") of the Company.
- B. Pursuant to the Appointment Order, the Vendor is authorized to sell the Assets and apply for an order of the Court approving the sale of the Assets and vesting title to the Assets in the Purchaser.
- C. Subject to an order being issued by the Court approving the sale of the Purchased Assets (defined herein) and pursuant to the terms of this Agreement, the Purchaser has offered to purchase the Purchased Assets and the Vendor has accepted such an offer on the terms and conditions contained herein.

**NOW THEREFORE IN CONSIDERATION** of the premises and the mutual agreements in this Agreement, and for other consideration (the receipt and sufficiency of which are acknowledged by each Party), the Parties agree as follows.

**ARTICLE 1  
INTERPRETATION**

**1.1 Definitions**

In this Agreement:

**“Agreement”** means this asset purchase agreement resulting from the acceptance, by the Vendor, of the offer provided for in Section **Error! Reference source not found.** and all Schedules attached hereto and the terms “hereof” and “hereto” refer to this Agreement as a whole and references to “Section” and “subsection” mean the relevant section or subsection of this Agreement unless the context specifically indicates otherwise;

**“Applicable Law”** means any domestic or foreign statute, law (including the common law), ordinance, rule, regulation, restriction, regulatory policy or guideline, by-law (zoning or otherwise), or Order, or any consent, exemption, approval or License of any Governmental Authority, that applies in whole or in part to the Transaction, the Vendor, the Purchaser, the Company, the Business, the manner in which the Business is carried on or to any of the Purchased Assets;

**“Appointment Order”** means the order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice dated November 25, 2020, appointing the Vendor as Receiver of all of the assets, property and undertaking of the Company, including the Purchased Assets, pursuant to section 243 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.C43, as amended (the **“CJA”**)

**“Approval Order”** means an order or orders of the Court in a form substantially in accordance with Schedule A authorizing and approving the Transaction contemplated under this Agreement (and which Order may, at the option of the Vendor, be combined, in one Order, with the Vesting Order);

**“Assets”** has the meaning given in recital A;

**“BIA”** means the *Bankruptcy and Insolvency Act* of Canada as the same may be amended from time to time;

**“Business”** means the retail pharmacy business of the Company;

**“Business Day”** means a day other than a Saturday or Sunday, on which Canadian chartered banks are open for the transaction of domestic business in Toronto, Ontario;

**“Claims”** shall have the meaning ascribed thereto in the Vesting Order;

**“Closing”** means the completion of the sale to, and purchase by the Purchaser of, the Purchased Assets in accordance with the terms of this Agreement;

**“Closing Date”** means ten (10) Business Days after the Court grants the Approval Order and the Vesting Order or such other date as the parties hereto agree to in writing;

**“Closing Document”** means any document delivered at or subsequent to the Closing Time as provided in or pursuant to this Agreement;

**“College”** means the Ontario College of Pharmacists;

**“Company”** has the meaning given in the listing of the Parties of the First Part;

**“Contracts”** means the full benefit and advantage of all contracts, agreements and entitlements of the Company relating to the Business [other than the interest of any of the Company in any of the Accounts Receivable, the Inventory, the Fixed Assets, the Equipment Leases, the Goodwill, the Records, Intellectual Property, and/or the leasehold interest of the Company in the Premises];

**“Closing Time”** means 10:00 am Toronto time on the Closing Date or such other time on the Closing Date as the Parties agree in writing that the Closing shall take place;

**“Court”** means the Ontario Superior Court of Justice (Commercial List);

**“Deposit”** has the meaning set out in Section 2.3;

**“Encumbrances”** shall have the meaning ascribed to thereto in the Vesting Order;

**“Excluded Assets”** means (i) any Assets not specifically included as part of the Purchased Assets, and (ii) for greater certainty, includes the Real Property, bank accounts of the Company, cash on hand or cash equivalents at Closing;

**“Fixed Assets”** means all of the fixed assets, machinery, equipment, computers, furniture, furnishings and vehicles owned by the Company together with all operating manuals, maintenance logs, and equipment drawings and specifications in the possession of the Vendor;

**“Goodwill”** means the goodwill of the Company included in the Purchased Assets, including the right to carry on its Business as successor thereto and the use of all telephone numbers and facsimile numbers used in its Business, patient lists and related prescription lists, trade name and customer and supplier lists;

**“Governmental Authority”** means any domestic or foreign government whether federal, provincial, state or municipal and any governmental agency, governmental authority, governmental tribunal or governmental commission of any kind whatever;

**“including”** means **“including without limitation”** and the term **“including”** shall not be construed to limit any general statement which it follows to the specific or similar items or matters immediately following it;

**“Intellectual Property”** means all of the patents, trade names, trademarks and other intellectual property and the Goodwill appurtenant thereto to the extent same comprises property of the Company included in the Purchased Assets as of the Closing Date, any and all other patents, trade names, trademarks and other intellectual property and the goodwill appurtenant thereto together with all documents, drawings, and technical data in the possession of the Vendor;

**“Inventory”** means – subject to the reconciliation provisions hereof (including Section 5.3) - all inventories of every kind and nature and wheresoever situated of our relating to the Business including, but not limited to , pharmaceuticals, over-the-counter medications, front-of-counter sundries, tobacco products but does not, if applicable, include lottery tickets or related products.

**“Inventory Valuation”** has the meaning set out in Section 5.3;

**“Lease”** means the lease between the Vendor and the landlord of the Premises, which is occupied by the Company pursuant to the lease disclosed to the Purchaser in the data room for the sale process;

**“License”** means any license, permit, approval, right, privilege, concession or franchise in respect of the Business;

**“Listing Broker”** means Maged Bebawy or another representative of REMAX West Realty Inc.

**“Order”** means any order (draft or otherwise), judgment, injunction, decree, award or writ of any court, tribunal, arbitrator, Governmental Authority, or other Person;

**“Parties”** means the Purchaser and the Vendor collectively, and **“Party”** means any one of them;

**“Permitted Encumbrances”** shall mean those encumbrances listed in the Approval and Vesting Order attached as Schedule “A”

**“Person”** or **“person”** shall be broadly interpreted and includes an individual, body corporate, partnership, joint venture, trust, association, unincorporated organization, the Crown, any Governmental Authority or any other entity recognized by law;

**“Premises”** means the premises as listed in Schedule B;

**“Purchase Price”** means the purchase price payable for the Purchased Assets pursuant to Section 2.2 ;



**“Purchased Assets”** means, subject to the terms hereof (including the terms with respect to reconciliation of Inventory), all of the interest of the Company in the retail pharmacy business, including but not limited to Fixed Assets, Intellectual Property, the Lease, and Inventory, but not including any Excluded Assets;

**“Related Person”** has the meaning in the *Bankruptcy and Insolvency Act*, 1985, c. B-3, as amended;

**“Records”** means all of the records relating exclusively to the Business consisting of operating data, files, books and records, correspondence, materials and contract documents;

**“Transaction”** means the transaction of purchase and sale contemplated pursuant to this Agreement;

**“Vesting Order”** means an order or orders of the Court in a form substantially in accordance with Schedule A ordering that the right, title and interest of the Company in the Purchased Assets be vested in the Purchaser free and clear of any right, title or interest of Claims and Encumbrances, except for Permitted Encumbrances.

## **1.2 Statutes**

Unless specified otherwise, reference in this Agreement to a statute refers to that statute as it may be amended or to any restated or successor legislation of comparable effect.

## **1.3 Headings**

The division of this Agreement into articles, Sections, subsections and schedules and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

## **1.4 Number and Gender**

In this Agreement, words in the singular include the plural and vice-versa and words in one gender include all genders.

## **1.5 Entire Agreement**

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of or between the Parties.

**1.6 Amendment**

This Agreement may only be amended, modified or supplemented by a written agreement signed by each Party.

**1.7 Waiver of Rights**

Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

**1.8 Schedules**

The following Schedules form part of this Agreement:

Schedule A - Form of Approval and Vesting Order

Schedule B - Addresses of Premises

Schedule C - Purchase Price Allocation

**1.9 Applicable Law**

This Agreement shall be governed by, and interpreted and enforced in accordance with, the laws in force in Ontario (excluding any conflict of laws, rule or principle which might refer such interpretation to the laws of another jurisdiction). Each Party irrevocably submits to the exclusive jurisdiction of the Court with respect to any matter arising hereunder or related hereto.

**1.10 Currency**

Unless specified otherwise, all statements of or references to dollar amounts in this Agreement are to Canadian dollars.

**1.11 Third Party Beneficiaries**

Nothing in this Agreement or in any Closing Document is intended expressly or by implication to, or shall, confer upon any Person other than the Parties, any rights or remedies of any kind.

**ARTICLE 2**  
**PURCHASE AND SALE**

**2.1 Purchase and Sale of Purchased Assets**

- (a) The Vendor shall sell, assign and transfer to the Purchaser and the Purchaser shall purchase the Purchased Assets on the Closing Date pursuant to the Vesting Order and the Purchaser shall pay the Purchase Price on the Closing Date, subject to the terms and conditions contained in this Agreement.
- (b) The Purchaser hereby acknowledges to and in favour of the Vendor that the Purchaser has conducted its own investigations and inspections of the Purchased Assets and that the Purchaser is responsible to conduct its own inspections and investigations of all matters and things connected with or in any way related to the Purchased Assets, that the Purchaser has satisfied itself with respect to the Purchased Assets and all matters and things connected with or in any way related to the Purchased Assets, that the Purchaser has relied entirely upon its own investigation and inspections in entering into this Agreement, that the Purchaser is purchasing the Purchased Assets on an "as is, where is" basis as at the Closing Date, that the Purchaser will accept the Purchased Assets in their state, condition and location on Closing and that the Purchaser hereby acknowledges that the Vendor has made no representations, warranties, statements or promises, including as to the compliance with any Applicable Laws affecting the Transaction, save and except as are expressly contained in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties and representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) do not apply to the sale of the Purchased Assets and have been waived by the Purchaser. Except as expressly set out in this Agreement, no adjustment shall be allowed to the Purchaser for any changes in condition, quality or quantity of the Purchased Assets to and including the Closing Date. Except as specifically contemplated and provided for in this Agreement, the Purchaser acknowledges that the Vendor is not required to inspect or count, or provide any inspection or counting, of the Purchased Assets or any parts thereof and the Purchaser shall be deemed, at its own expense, to have relied entirely upon its own inspection and investigation of the Purchased Assets. Nothing contained herein shall require the Vendor, following Closing, to take possession of, protect, preserve, or otherwise safeguard any Purchased Assets.
- (c) The Purchaser acknowledges and agrees that any and all information relating to the Purchased Assets (including any environmental report(s), if any, or any information memorandum given by the Vendor, the Company, or any other person to the Purchaser) was delivered to the Purchaser solely for the Purchaser's convenience and there is no representation or warranty of any kind whatsoever made by the Vendor nor the Company or any other person with respect to the accuracy or completeness of any such information.

The descriptions of any of the Purchased Assets contained on the Schedules appended hereto are for the purposes of identification only and the Vendor is not liable for any error or omission in such Schedules.

- (d) The Purchaser acknowledges that it shall be the Purchaser's sole responsibility to obtain, at its own expense, and the Purchaser shall use its best efforts to obtain, any consents, approvals or any further documentation or assurances which may be required to be obtained by Purchaser (but not the Company or Vendor) to carry out the terms of this Agreement. Notwithstanding the foregoing, the Vendor agrees to do such acts and shall execute such further documents, conveyances, deeds, assignments, transfers and the like, and will cause the doing of such acts and will cause the execution of such further documents as are within its power and as the Purchaser may reasonably request be done and or executed, in order to carry out the terms of this Agreement, but in so doing, shall not be required to incur any expense or liability (except as the Vendor in its absolute discretion sees fit).
- (e) The Purchaser shall assume, at its own cost, complete responsibility for compliance with all Applicable Laws in connection with the Purchased Assets, or the use thereof by the Purchaser, after the Closing Date.
- (f) The Purchaser shall be responsible for making all necessary arrangements for continued occupation of the Premises as assignee pursuant to the Lease.

## 2.2 Purchase Price & Purchased Assets

The Purchase Price for the Purchased Assets (save and except inventory as defined herein) as apportioned by the Purchaser on Appendix C (not including all applicable taxes, for which the Purchaser shall also be liable in accordance with Section 2.5) shall be CDN \$ \_\_\_\_\_

## 2.3 Payment of Purchase Price

The Purchaser shall pay the Purchase Price to the Vendor as follows:

- (a) the sum of CDN \$ \_\_\_\_\_ shall be paid by wire transfer, delivery of certified funds or bank draft payable to the Vendor "in Trust", with the submission of this Agreement by the Purchaser to the Vendor and held by the Vendor as a deposit (the "Deposit") which shall be dealt with in accordance with Section 2.4; and
- (b) the balance of the Purchase Price together with the amount of the agreed inventory valuation shall be delivered to the Vendor at Closing payable in cash, by delivery of a certified cheque or bank draft or by wire transfer.

## **2.4 Deposit**

- (a) The Deposit shall be paid and held in escrow by the Vendor, until the Closing Time, at which time the Deposit shall be applied on account of the Purchase Price or as otherwise provided for in this Agreement.
- (b) If this Agreement:
  - (i) is terminated or the Closing otherwise fails to occur for any reason other than a breach by the Purchaser of its obligations under this Agreement, then the Purchaser shall be entitled to the return of the Deposit without interest within five (5) Business Days and the Purchaser shall have no recourse against the Receiver and this Agreement shall become null and void;
  - (ii) is terminated or the Closing otherwise fails to occur as a result of the breach of the Purchaser of its obligations under this Agreement, then the Vendor shall be entitled to retain the Deposit as liquidated damages, and shall be entitled to pursue all of its other rights and remedies against the Purchaser.

## **2.5 Taxes**

The Purchaser shall be liable for and shall pay, in addition to the Purchase Price, all federal and provincial sales taxes and any other taxes or duties payable in connection with the conveyance and transfer of the right, title and interest, if any, of the Vendor in and to the Purchased Assets (collectively, the "**Taxes**") to the Purchaser and the Purchaser undertakes and agrees to pay all such Taxes on Closing – provided that the Vendor and the Purchaser agree that the appropriate elections with respect to the payment of Taxes may be made. By executing this Agreement, the Purchaser indemnifies and holds the Vendor harmless from and against any and all costs, expenses, liabilities and damages incurred or suffered by the Vendor as a result of the failure of the Purchaser to pay any of the Taxes exigible in connection with the Transaction which indemnity shall survive closing.

## **2.6 Time and Place of Closing**

The Closing shall take place on the Closing Date at the offices of the solicitors for the Vendor or as may otherwise be agreed between the Parties in writing.

## **2.7 The Closing**

### **2.7.1 Vendor's Deliveries**

At Closing, the Vendor shall:

- (a) Upon the delivery of all of the Purchaser's Deliveries as set out in Article 2.7.2, execute and deliver to the Purchaser the Receiver's Certificate in the form appended as Schedule "A" to the Vesting Order;
- (b) deliver to the Purchaser the Approval Order and the Vesting Order;
- (c) deliver to the Purchaser a certificate dated as of the Closing Date, confirming that all of the representations and warranties of the Vendor contained in this Agreement are true as of the Closing Date, with the same effect as though made on and as of the Closing Date;
- (d) execute and deliver to the Purchaser a bill of sale in respect of the Purchased Assets on the terms contained herein, if requested; and
- (e) execute and deliver or cause to be executed and delivered such other documents, instruments or certificates as contemplated by this Agreement.

**2.7.2 Purchaser's Deliveries**

At Closing, the Purchaser shall:

- (a) deliver payment of the balance of the Purchase Price in accordance with Article 2;
- (b) execute and deliver or cause to be executed and delivered such other documents, instruments or certificates as the Vendor may reasonably request.
- (c) deliver to the Vendor an acknowledgement dated as of the Closing Date, that each of the conditions precedent in this Agreement in favour of the Purchaser have been fulfilled, performed or waived by the Purchaser as of the Closing Date;
- (d) execute and deliver or cause to be executed and delivered such other documents, instruments or certificates as contemplated by this Agreement.

**ARTICLE 3  
REPRESENTATIONS AND WARRANTIES**

**3.1 Representations and Warranties of the Vendor**

The Vendor represents and warrants to the Purchaser as follows and acknowledges that the Purchaser is relying upon such representations and warranties in entering into this Agreement:

- (a) The Vendor has been appointed Receiver of the Company pursuant to the Appointment Order.
- (b) The Vendor has done no act to dispose of or encumber any of the Purchased Assets.

### **3.2 Representations and Warranties of the Purchaser**

The Purchaser represents and warrants to the Vendor as follows and acknowledges that the Vendor is relying upon such representations and warranties in entering into this Agreement:

- (a) The Purchaser is a corporation duly incorporated, organized, and validly existing under the laws of its jurisdiction of incorporation. No proceedings have been taken or authorized by the Purchaser or, to the best of the Purchaser's knowledge, by any other Person, with respect to the bankruptcy, insolvency, liquidation, dissolution or winding up of the Purchaser.
- (b) The Purchaser has all necessary power and capacity to execute and deliver, and to observe and perform its covenants and obligations under, this Agreement and the Closing Documents to which it is a party. The Purchaser has taken all corporate action necessary to authorize the execution and delivery of, and the observance and performance of, its covenants and obligations under this Agreement and the Closing Documents to which it is or shall be a party.
- (c) This Agreement has been, and each Closing Document to which the Purchaser is a party will on Closing be, duly executed and delivered by the Purchaser, and this Agreement constitutes, and each Closing Document to which the Purchaser is a party will, on Closing, constitute, a valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms.
- (d) The Purchaser is in good standing with the College and with the Ontario Ministry of Health.
- (e) The Purchaser is not a non-Canadian within the meaning of the *Investment Canada Act* (Canada).

### **3.3 Interpretation**

Each representation and warranty made by a Party in this Agreement shall be treated as a separate representation and warranty in respect of each statement made and the interpretation of any statement made shall not be restricted by reference to, or inference from, any other statement made in a representation and warranty of such Party.

### **3.4 Commission**

Each Party represents and warrants to each other Party that no other Party will be liable for any brokerage commission, finder's fee or other similar payment in connection with the transactions contemplated hereby because of any action taken by, or agreement or understanding reached by, that Party.

### **3.5 Survival of Representations and Warranties**

All representations, warranties, statements, covenants and agreements made by the Purchaser in this Agreement or any Closing Document shall survive the Closing indefinitely.

## **ARTICLE 4 CONDITIONS PRECEDENT**

### **4.1 Conditions of Closing**

Either the Purchaser or the Vendor shall be obliged to complete the Closing only if each of the conditions precedent set out below in Sections 4.1.1 through 4.1.9 inclusive, has been satisfied in full at or before the Closing Time.

#### **4.1.1 Accuracy of Representations and Performance of Covenants**

At the Closing Time, all of the representations and warranties of each of the Purchaser and the Vendor made in or pursuant to this Agreement shall be true and correct as if made at and as of the Closing Time (regardless of the date as of which the information in this Agreement or in any schedule or other document made pursuant hereto is given) except as such representations or warranties may be affected by the appeal of any court order referred to herein. At the Closing Time, each of the Purchaser and the Vendor shall have observed or performed in all respects all of the obligations, covenants and agreements which it must perform at or before the Closing Time. Each of the Purchaser and the Vendor shall have received immediately prior to the Closing Time a certificate from the other certifying, to the best of its knowledge, information and belief (after due enquiry) that the conditions in this Section 4.1.1 to be satisfied by it have been satisfied.

#### **4.1.2 Litigation**

No Order shall have been entered that prohibits or restricts the Closing. Neither of the Parties, nor any of their respective directors, officers, employees, or agents, shall be a defendant or third party to or threatened with any litigation or proceedings, before any court or Governmental Authority which, in the opinion of either the Purchaser or the Vendor, acting reasonably, could prevent or restrict that Party from performing any of its obligations in this Agreement or any Closing Document, including the appeal or any threatened appeal of the Vesting Order or the Approval Order.



#### **4.1.4 Receipt of Closing Documentation**

All documentation relating to the sale and purchase of the Purchased Assets and such other Closing Documents relating to the due authorization and completion of the sale and purchase and all actions and proceedings taken on or prior to the Closing in connection with the performance by the Purchaser and the Vendor of their obligations under this Agreement shall be satisfactory to each of the Purchaser, the Vendor and their respective counsel, as applicable. Each of the Purchaser and the Vendor shall have received copies of the Closing Documents and all such documentation or other evidence as it may reasonably request in order to establish the consummation of the transactions contemplated hereby and the taking of all corporate proceedings in connection therewith in form (as to certification and otherwise) and substance satisfactory to each of the Purchaser, the Vendor and their respective counsel.

#### **4.1.5 Orders**

The Vendor shall have obtained the Vesting Order and the Approval Order. The Vendor shall not have received notice of appeal in respect to of the Approval Order and the Vesting Order and the Approval Order and the 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;

#### **4.1.6 No Removal of Purchased Assets**

The Fixed Assets or any material portion thereof, shall not have been removed from the control of the Vendor since the date of the Appointment Order, by any means or process and no party shall have taken any action to redeem any of the Fixed Assets.

#### **4.1.7 Cancellation of Insurance**

Except as expressly contemplated herein, all insurance maintained by the Vendor on behalf of the Company shall be cancelled by the Vendor on the Closing Date and the Purchaser shall be responsible for placing its own insurance with respect to the Business from and after the Closing Date.

#### **4.1.8 Assignment of the Lease**

If consent to assignment by the Vendor is required under the Lease, (i) the landlord under the Lease shall have consented to the assignment of the Lease by the

Vendor to the Purchaser, or (ii) the Vendor shall have obtained an Order authorizing and compelling such assignment. The further terms in Schedule D apply to this condition.

#### **4.1.9 Registration**

The Purchaser shall have obtained the appropriate registrations with the Ontario Drug Plan and the College within 30 days of the date of this Agreement.

#### **4.2 Waiver**

Any Party may waive, by notice to the other Parties, any condition set forth in this Article 4 which is for its benefit. No waiver by a Party or any condition, in whole or in part, shall operate as a waiver of any other condition.

#### **4.3 Failure to Satisfy Conditions**

If any condition set forth in Article 4 is not satisfied at the Closing Time, the Party entitled to the benefit of such condition (the “**First Party**”) may terminate this Agreement by notice in writing to the other Party and in such event the Parties shall be released from all obligations hereunder.

### **ARTICLE 5**

#### **5.1 Access**

The Vendor agrees to allow the Purchaser and the Purchaser’s authorized representatives accompanied by the Listing Broker, as defined herein, access to the Purchased Assets on two occasions prior to closing during normal business hours to inspect the Purchased Assets and make arrangements for closing. The Purchaser covenants and agrees to (i) repair or pay the cost of repair of any damage occasioned during and resulting from the inspection of the Purchased Assets conducted by the Purchaser or its authorized representatives, as outlined above and to return the Purchased Assets to the condition they were in prior to such inspections; and (ii) indemnify and save the Vendor harmless from and against all losses, costs, claims, third party claims, damages, expenses (including legal costs as between a solicitor and its own client) which the Vendor may suffer as a result of the inspection of the Purchased Assets conducted by the Purchaser or its authorized representatives, as outlined above or as a result of any unauthorized tests or inspections by a Government Authority. The provisions of this Section 5.1 shall survive Closing or other termination of this Agreement, notwithstanding any other provisions hereof.

#### **5.2 Non-Disclosure of Transaction**

The Purchaser agrees that it will not and will cause its officers, directors, employees, representatives and advisors not to, disclose or permit to be disclosed to any Person, any information relating to the Purchase Price or any of the other terms of this Agreement until after closing, other than to the equity holders of the Purchaser and

Persons solicited by the Purchaser to provide financing in connection with the Transaction (and the Purchaser shall ensure, for the benefit of the Vendor, that such parties shall treat all such information in the strictest confidence and the Purchaser shall indemnify the Vendor in that regard).

### 5.3 Inventory

The Purchaser agrees that the value of the inventory to be paid over and above the purchase price shall be determined pursuant to an inventory count by a third party consultant as existing on the day prior to the Closing Date ("**Inventory Valuation**"), which shall be provided by the Vendor to the Purchaser on the day of Closing. It is expressly acknowledged and agreed that:

(a) both the Vendor and the Purchaser are entitled to observe the Inventory Valuation, but any costs incurred in so doing are for each Party's own account;

(b) the parties agree that the cost of the Inventory Valuation shall be \$1,500.00 plus HST and that the Parties shall equally bear the cost of same;

(c) the Purchaser's share of the cost of the inventory count shall be added to the amount to be paid pursuant to the Inventory Valuation;

(d) the inventory count shall take place the night before the Closing Date;

(e) the Inventory shall be valued at cost; and

(f) the sales of Inventory on the Closing Date shall be for the account of the Purchaser provided the Closing has occurred.

### 5.4 Computers

The Vendor shall convey all of its right title and interest in the computer systems and related equipment, both hardware and software (the "**Computers**") to the Purchaser at closing. The Purchaser agrees to allow the Vendor access to the Computers following Closing as may be reasonably required by the Vendor to complete its administration of the receivership of the Company, provided that such access will be on reasonable notice to and under reasonable arrangements with the Purchaser.

### 5.5 Risk of Loss

Up to the time of the Closing, the Purchased Assets shall be and remain at the risk of the Vendor. If, prior to the time of the Closing, all or any material part of the Purchased Assets are substantially destroyed or damaged by fire or any other casualty or shall be expropriated, the Purchaser shall have the option, exercisable by notice in writing given within two (2) Business Days of the Purchaser receiving notice in writing from the Vendor of such destruction, damage or expropriation:

- (a) to complete the purchase without reduction of the Purchase Price and all proceeds of insurance or compensation for expropriation shall be payable to the Purchaser and all right and claim of the Vendor to any such amounts not paid by the time of the Closing shall be assigned by the Vendor to the Purchaser; or
- (b) of terminating this Agreement and not completing the purchase, in which case all obligations of the Purchaser and the Vendor hereunder, other than those pursuant to Section 5.1, shall terminate and the Deposit shall be returned to the Purchaser.

For greater certainty, where any damage is not substantial, the Purchaser shall be obliged to complete this Agreement, without deduction, and shall be entitled to the proceeds of insurance, if any, in connection with such damage.

## **5.6 Records**

The Purchaser agrees to maintain the Records for a period of at least seven (7) years following the Closing and shall provide access to the Vendor to such records, as the Vendor may reasonably require to complete its administration of the receivership of the Company.

## **ARTICLE 6 GENERAL**

### **6.1 Expenses**

Each Party shall pay all expenses it incurs in authorizing, preparing, executing and performing any aspect of the Transaction contemplated by this Agreement, whether or not the Closing occurs, including all fees and expenses of its legal counsel, bankers, investment bankers, brokers, accountants or other representatives or consultants.

### **6.2 Time**

Time is of the essence of each provision of this Agreement.

### **6.3 Notices**

Any notice, demand or other communication (in this Section, a "notice") required or permitted to be given or made hereunder shall be given in writing and addressed as follows:

- (a) In the case of a notice to the Vendor, addressed to it at:

MSI SPERGEL INC., in its capacity as the Court appointed Receiver of  
all of the property and assets of Toronto Apothecary Pharma Inc.  
200-505 Consumers Road, Toronto, ON M2J 4V8

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

and with a further copy to its counsel at:  
Goldman, Spring, Nash and Haber (Brendan Bissell)  
480 University Avenue, Suite 1600  
Toronto, ON M5G1V2  
Attention: Brendan Bissell  
Tel: (416) 597-6489  
Fax: (416) 597-9922  
Email: bissell@gsnh.com

(b) In the case of the Purchaser:

\_\_\_\_\_  
GSV Drugs Inc o/a Henry's Drugs  
Unit 4, 1221 Markham Road  
Toronto M1h 3e2 Ontario  
\_\_\_\_\_

Attention: Essam Saleh \_\_\_\_\_  
Tel.: 416 439-4729 \_\_\_\_\_  
Fax: 416 439-4729 \_\_\_\_\_  
Email: [rxpro8@rogers.com](mailto:rxpro8@rogers.com); [sherif.gerges@thpharmacy.com](mailto:sherif.gerges@thpharmacy.com) \_\_\_\_\_

and with a further copy to its counsel at:

\_\_\_\_\_  
D. Ross Elver, Barrister & Solicitor  
50 Fernalroy Boulevard  
Toronto M8Z 3W3 Ontario  
\_\_\_\_\_  
\_\_\_\_\_

Attention: Ross Elver \_\_\_\_\_  
Tel.: 416 932-2705 \_\_\_\_\_  
Fax: N/A \_\_\_\_\_  
Email: [drelver@kow.on.ca](mailto:drelver@kow.on.ca) \_\_\_\_\_

Any such notice, if personally delivered, shall be deemed to have been validly and effectively given and received on the Business Day of such delivery and if sent by telecopier or other electronic communication with confirmation of transmission, shall be deemed to have been validly and effectively given and received on the Business Day next following the day it was received.

#### **6.4 Public Announcements / Confidentiality of Agreement**

Before the Closing Date, the Purchaser shall make no public statement or issue any press release concerning the transactions contemplated by this Agreement except as may be necessary to comply with the requirements of all Applicable Law. If any such public statement or release is so required, the Purchaser shall consult with the other Parties prior to making such statement or release, and the Parties shall use all reasonable efforts, acting in good faith, to agree upon a text for such statement or release which is satisfactory to all Parties. The Parties expressly acknowledge and agree that this Agreement shall not become public until after Closing.

#### **6.5 Assignment**

- (a) The Purchaser may not assign any or all rights or benefits under this Agreement to any Person without the Vendor's written consent which consent shall be in the Vendor's sole discretion. If the Purchaser wishes to assign this agreement after the grant of the Vesting Order and the Vendor consents in its sole discretion, the Purchaser shall pay all of the costs incurred by the Vendor on a solicitor and its own client scale in connection with all proceedings to amend the Approval and Vesting Order or otherwise provide for vesting in the assignee.
- (b) Except as provided in Section 6.5(a), no assignment of benefits or arrangement for substituted performance by one Party shall be of any effect.
- (c) This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors (including any successor by reason of amalgamation or statutory arrangement of any Party) and permitted assigns.

#### **6.6 Further Assurances**

Each Party shall do such acts and shall execute such further documents, conveyances, deeds, assignments, transfers and the like, and will cause the doing of such acts and will cause the execution of such further documents as are within its power as any other Party may in writing at any time and from time to time reasonably request be done and or executed, in order to give full effect to the provisions of this Agreement and each Closing Document.

#### **6.7 Remedies Cumulative**

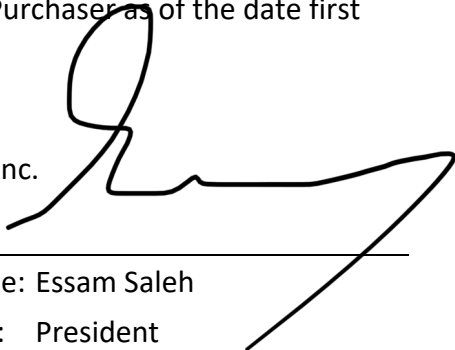
The rights and remedies of the Parties under this Agreement are cumulative and in addition to and not in substitution for any rights or remedies provided by law. Any single or partial exercise by any Party hereto of any right or remedy for default or breach of any term, covenant or condition of this Agreement does not waive, alter, affect or prejudice any other right or remedy to which such Party may be lawfully entitled for the same default or breach.

**6.8 Counterparts**

This Agreement may be executed in any number of counterparts. Each executed counterpart shall be deemed to be an original. All executed counterparts taken together shall constitute one agreement.

**IN WITNESS WHEREOF** this Agreement has been executed by the Purchaser as of the date first noted.

GSV DRUGS Inc.


Per: 

---

Name: Essam Saleh  
 Title: President  
 I/We have the authority to bind the corporation

**IN WITNESS WHEREOF** this Agreement has been executed by the Vendor as of the date first noted.

**MSI SPERGEL INC.**, solely in its capacity as the Court appointed Receiver of Toronto Apothecary Pharma Inc. o/a The Apothecary Shop and not in any other capacity and with no personal or corporate liability

Per: 

---

Name: Mukul Manchanda, CPA, CIRP, LIT  
 Title: Managing Partner  
 I/We have the authority to bind the corporation

**SCHEDULE A**

**Approval and Vesting Order**



Court File No. CV-20-00650853-00CL

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

THE HONOURABLE ) WEEKDAY, THE #  
 )  
JUSTICE ) DAY OF MONTH, 2021  
 )

B E T W E E N:

1951584 Ontario Inc. (formerly DESANTE FINANCIAL SERVICES INC.) and  
CWB MAXIUM FINANCIAL INC.

Applicants

- and -

4231 SHEPPARD AVENUE EAST INC., ABU SEIFEIN BRIMLEY PHARMA INC., BLESS  
HUI PHARMA INC., JG WINDSOR INC., JM WESTVIEW PHARMA INC., JUBILEE  
PROPERTY INVESTMENTS INC., MAPLE MEDI PHARMA INC., RIVER HILL  
PHARMACY LTD., SJ EAST PHARMA INC., ST. MARY COOKSVILLE PHARMA INC.,  
ST. MARY THEOTOKOS PHARMA INC., STONEY CREEK PHARMA INC., TORONTO  
APOTHECARY PHARMA INC., WESTWAY HOLDINGS INC. AND OLDE  
WALKERVILLE HOLDINGS INC.

Respondents

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by msi Spergel Inc. in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of the Respondents, including Toronto Apothecary Pharma Inc. (the “**Debtor**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Receiver and • (the “**Purchaser**”) dated • and appended to the • Report of the Receiver dated • (the “**• Report**”), and vesting in the Purchaser the Debtor’s right, title and interest in and to the assets described in the Sale Agreement (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, and counsel for • , no one appearing for any other person on the service list, although properly served as appears from the affidavit of service, filed:

1. THIS COURT ORDERS that the time for service of the motion record in respect of this motion and the • Report is hereby abridged and validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.

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

3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described as such in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by orders of this court in this proceeding; (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 B hereto, as the case may be (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 C) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

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

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

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

7. THIS COURT ORDERS that, notwithstanding:

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

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

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

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

9. THIS COURT 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.

10. THIS COURT ORDERS that this order is effective as of its date and does not need to be issued and entered.

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

Court File No. CV-20-00650853-00CL

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**COMMERCIAL LIST**

B E T W E E N:

1951584 Ontario Inc. (formerly DESANTE FINANCIAL SERVICES INC.) and  
CWB MAXIUM FINANCIAL INC.

Applicants

- and -

4231 SHEPPARD AVENUE EAST INC., ABU SEIFEIN BRIMLEY PHARMA INC., BLESS  
HUI PHARMA INC., JG WINDSOR INC., JM WESTVIEW PHARMA INC., JUBILEE  
PROPERTY INVESTMENTS INC., MAPLE MEDI PHARMA INC., RIVER HILL  
PHARMACY LTD., SJ EAST PHARMA INC., ST. MARY COOKSVILLE PHARMA INC.,  
ST. MARY THEOTOKOS PHARMA INC., STONEY CREEK PHARMA INC., TORONTO  
APOTHECARY PHARMA INC., WESTWAY HOLDINGS INC. AND OLDE  
WALKERVILLE HOLDINGS INC.

Respondents

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable • of the Ontario Superior Court of Justice (the “**Court**”) dated •, msi Spergel Inc. was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of the Respondents, including Toronto Apothecary Pharma Inc. (the “**Debtor**”).

B. Pursuant to an Order of the Court dated •, the Court approved the agreement of purchase and sale made as of • (the “**Sale Agreement**”) between the Receiver, the Debtor and • (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtor’s right, title and

interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section • of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

THE RECEIVER CERTIFIES the following:

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

**msi Spergel Inc., in its capacity as Receiver of the undertaking, property and assets of Toronto Apothecary Pharma Inc., and not in its personal capacity**

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

[Motion Record Page No. 331]

**Schedule B – Specific Claims to be deleted and expunged from the Purchased Assets**

- Any McKesson Canada Corporation security registered under *Personal Property Security Act* (Ontario) (“PPSA”) registration number 20171027 1027 1462 7422 and 20171027 1027 1462 7423.
- Any Kohl & Frisch Limited security registered under PPSA registration number 20160310 1623 1862 1545.
- Any Desante Financial Services Inc. security registered under PPSA registration number 20160211 1442 1530 3888 and 20160211 1442 1530 4092.
- Including any assignment, as the case may be.

[Motion Record Page No. 332]

**Schedule C – Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Purchased Assets**

**(unaffected by the Vesting Order)**

- Assumed Contracts (as defined in the Sale Agreement, as the case may be).



**SCHEDULE B**

**Addresses of Premises**

**842 Markham Road, Scarborough, Ontario**

## SCHEDULE C

## PURCHASE PRICE ALLOCATION

Toronto Apothecary Pharma Inc.- Prescriptions and Goodwill	\$410,000.00
Toronto Apothecary Pharma Inc.- Fixtures and Equipment	\$40,000.00

## SCHEDULE D

LEASE

Whereas the business of Toronto Apothecary Pharma Inc the assets of which are being purchased by the Purchaser under this Agreement are carried out from premises municipally known as 842 Markham Road Toronto and consisting of approximately 900 square feet, more or less, (the "Premises") demised by a Lease originally dated December 17, 2012 between 1522612 Ontario Limited as Landlord ( the "Landlord") and HCKS Ltd (the "Original Tenant") as tenant for a term of 5 years commencing January 1, 2013 to December 31, 2017. The Lease contained the option to renew the Lease for three (3) terms of 5 years each. The lease was assigned by the original tenant to Toronto Apothecary Pharma Inc ("Toronto Apothecary") pursuant to a Consent to Assignment of Lease dated February 17, 2016 among the Landlord, the Original Tenant, Toronto Apothecary and Diep Nguyen as Guarantor whereby the Lease was assigned by HCKS to Apothecary with the consent of the Landlord subject to the amendments to the Lease contained in the Assignment of Lease. Pursuant to a Renewal of Lease Agreement dated December 20, 2017 the Lease was renewed for a period of 5 years from January 1, 2018 to December 31, 2022 and the Landlord confirmed that the Tenant shall have 2 more terms of 5 years each to renew the Lease on the same terms and conditions as the Lease. The Lease as assigned and renewed as set out above is hereinafter referred to as the Lease.

It is a condition of the Purchaser's obligations to close the transactions of purchase and sale contemplated by this

Agreement that either the Landlord consent to the assignment of the Lease by the Receiver to the Purchaser or the vesting order of the Court provide that the Lease be assigned to the Purchaser in either case on or before the closing date of the transactions of purchase and sale contemplated hereby. The Purchaser shall not be obligated to accept any more onerous covenants or agreements than are currently set out in the Lease and the Purchaser shall assume no responsibility for any defaults of the Tenant under the Lease for any period prior to the date of the assignment of the Lease to the Purchaser.

# **APPENDIX 14**

**PHARMACY PURCHASE AGREEMENT**

**BLESS HUI PHARMA INC., O/A HUI'S GLOBAL HEALTH PHARMACY**

**THIS AGREEMENT** is made as of the 14<sup>th</sup> day of June, 2021.

**BETWEEN:**

**MSI SPERGEL INC.**, solely in its capacity as court-appointed Receiver of all of the property and assets of Bless Hui Pharma Inc., o/a Hui's Global Health Pharmacy (the "**Company**") and not in any other capacity and with no personal or corporate liability

(hereinafter called the "**Vendor**")

**OF THE FIRST PART**

- and -

Raouf Basilius in trust for a company to be incorporated

(hereinafter called the "**Purchaser**")

**OF THE SECOND PART**

**RECITALS:**

Whereas:

- A. Pursuant to the Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) in Court File No. CV-20-00650853-00CL ( the "**Proceedings**"), dated November 25, 2020 as amended and re-stated by a further Order of the Court dated February 3, 2021 (the "**Appointment Order**"), the Vendor was appointed as Receiver of all the assets, property and undertaking (the "**Assets**") of the Company
- B. Pursuant to the Appointment Order, the Vendor is authorized to sell the Assets and apply for an order of the Court approving the sale of the Assets and vesting title to the Assets in the Purchaser.
- C. Subject to an order being issued by the Court approving the sale of the Purchased Assets (defined herein) and pursuant to the terms of this Agreement, the Purchaser has offered to purchase the Purchased Assets and the Vendor has accepted such an offer on the terms and conditions contained herein.

**NOW THEREFORE IN CONSIDERATION** of the premises and the mutual agreements in this Agreement, and for other consideration (the receipt and sufficiency of which are acknowledged by each Party), the Parties agree as follows.

**ARTICLE 1  
INTERPRETATION**

**1.1 Definitions**

In this Agreement:

**“Agreement”** means this asset purchase agreement resulting from the acceptance, by the Vendor, of the offer provided for in Section **Error! Reference source not found.** and all Schedules attached hereto and the terms “hereof” and “hereto” refer to this Agreement as a whole and references to “Section” and “subsection” mean the relevant section or subsection of this Agreement unless the context specifically indicates otherwise;

**“Applicable Law”** means any domestic or foreign statute, law (including the common law), ordinance, rule, regulation, restriction, regulatory policy or guideline, by-law (zoning or otherwise), or Order, or any consent, exemption, approval or License of any Governmental Authority, that applies in whole or in part to the Transaction, the Vendor, the Purchaser, the Company, the Business, the manner in which the Business is carried on or to any of the Purchased Assets;

**“Appointment Order”** means the order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice dated November 25, 2020, appointing the Vendor as Receiver of all of the assets, property and undertaking of the Company, including the Purchased Assets, pursuant to section 243 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.C43, as amended (the **“CJA”**)

**“Approval Order”** means an order or orders of the Court in a form substantially in accordance with Schedule A authorizing and approving the Transaction contemplated under this Agreement (and which Order may, at the option of the Vendor, be combined, in one Order, with the Vesting Order);

**“Assets”** has the meaning given in recital A;

**“BIA”** means the *Bankruptcy and Insolvency Act* of Canada as the same may be amended from time to time;

**“Business”** means the retail pharmacy business of the Company;

**“Business Day”** means a day other than a Saturday or Sunday, on which Canadian chartered banks are open for the transaction of domestic business in Toronto, Ontario;

**“Claims”** shall have the meaning ascribed thereto in the Vesting Order;

**“Closing”** means the completion of the sale to, and purchase by the Purchaser of, the Purchased Assets in accordance with the terms of this Agreement;

**“Closing Date”** means ten (10) Business Days after the Court grants the Approval Order and the Vesting Order or such other date as the parties hereto agree to in writing;

**“Closing Document”** means any document delivered at or subsequent to the Closing Time as provided in or pursuant to this Agreement;

**“College”** means the Ontario College of Pharmacists;

**“Company”** has the meaning given in the listing of the Parties of the First Part;

**“Contracts”** means the full benefit and advantage of all contracts, agreements and entitlements of the Company relating to the Business [other than the interest of any of the Company in any of the Accounts Receivable, the Inventory, the Fixed Assets, the Equipment Leases, the Goodwill, the Records, Intellectual Property, and/or the leasehold interest of the Company in the Premises];

**“Closing Time”** means 10:00 am Toronto time on the Closing Date or such other time on the Closing Date as the Parties agree in writing that the Closing shall take place;

**“Court”** means the Ontario Superior Court of Justice (Commercial List);

**“Deposit”** has the meaning set out in Section 2.3;

**“Encumbrances”** shall have the meaning ascribed to thereto in the Vesting Order;

**“Excluded Assets”** means (i) any Assets not specifically included as part of the Purchased Assets, and (ii) for greater certainty, includes the Real Property, bank accounts of the Company, cash on hand or cash equivalents at Closing;

**“Fixed Assets”** means all of the fixed assets, machinery, equipment, computers, furniture, furnishings and vehicles owned by the Company together with all operating manuals, maintenance logs, and equipment drawings and specifications in the possession of the Vendor;

**“Goodwill”** means the goodwill of the Company included in the Purchased Assets, including the right to carry on its Business as successor thereto and the use of all telephone numbers and facsimile numbers used in its Business, patient lists and related prescription lists, trade name and customer and supplier lists;

**“Governmental Authority”** means any domestic or foreign government whether federal, provincial, state or municipal and any governmental agency, governmental authority, governmental tribunal or governmental commission of any kind whatever;

**“including”** means **“including without limitation”** and the term **“including”** shall not be construed to limit any general statement which it follows to the specific or similar items or matters immediately following it;

**“Intellectual Property”** means all of the patents, trade names, trademarks and other intellectual property and the Goodwill appurtenant thereto to the extent same comprises property of the Company included in the Purchased Assets as of the Closing Date, any and all other patents, trade names, trademarks and other intellectual property and the goodwill appurtenant thereto together with all documents, drawings, and technical data in the possession of the Vendor;

**“Inventory”** means – subject to the reconciliation provisions hereof (including Section 5.3) - all inventories of every kind and nature and wheresoever situated of our relating to the Business including, but not limited to , pharmaceuticals, over-the-counter medications, front-of-counter sundries, tobacco products but does not, if applicable, include lottery tickets or related products.

**“Inventory Valuation”** has the meaning set out in Section 5.3;

**“Lease”** means the lease between the Vendor and the landlord of the Premises, which is occupied by the Company pursuant to the lease disclosed to the Purchaser in the data room for the sale process;

**“License”** means any license, permit, approval, right, privilege, concession or franchise in respect of the Business;

**“Listing Broker”** means Maged Bebawy or another representative of REMAX West Realty Inc.

**“Order”** means any order (draft or otherwise), judgment, injunction, decree, award or writ of any court, tribunal, arbitrator, Governmental Authority, or other Person;

**“Parties”** means the Purchaser and the Vendor collectively, and **“Party”** means any one of them;

**“Permitted Encumbrances”** shall mean those encumbrances listed in the Approval and Vesting Order attached as Schedule “A”

**“Person”** or **“person”** shall be broadly interpreted and includes an individual, body corporate, partnership, joint venture, trust, association, unincorporated organization, the Crown, any Governmental Authority or any other entity recognized by law;

**“Premises”** means the premises as listed in Schedule B;

**“Purchase Price”** means the purchase price payable for the Purchased Assets pursuant to Section 2.2 ;

**“Purchased Assets”** means, subject to the terms hereof (including the terms with respect to reconciliation of Inventory), all of the interest of the Company in the retail pharmacy business, including but not limited to Fixed Assets, Intellectual Property, the Lease, and Inventory, but not including any Excluded Assets;



**“Related Person”** has the meaning in the *Bankruptcy and Insolvency Act*, 1985, c. B-3, as amended;

**“Records”** means all of the records relating exclusively to the Business consisting of operating data, files, books and records, correspondence, materials and contract documents;

**“Transaction”** means the transaction of purchase and sale contemplated pursuant to this Agreement;

**“Vesting Order”** means an order or orders of the Court in a form substantially in accordance with Schedule A ordering that the right, title and interest of the Company in the Purchased Assets be vested in the Purchaser free and clear of any right, title or interest of Claims and Encumbrances, except for Permitted Encumbrances.

## **1.2 Statutes**

Unless specified otherwise, reference in this Agreement to a statute refers to that statute as it may be amended or to any restated or successor legislation of comparable effect.

## **1.3 Headings**

The division of this Agreement into articles, Sections, subsections and schedules and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

## **1.4 Number and Gender**

In this Agreement, words in the singular include the plural and vice-versa and words in one gender include all genders.

## **1.5 Entire Agreement**

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of or between the Parties.

## **1.6 Amendment**

This Agreement may only be amended, modified or supplemented by a written agreement signed by each Party.

### **1.7 Waiver of Rights**

Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

### **1.8 Schedules**

The following Schedules form part of this Agreement:

- Schedule A - Form of Approval and Vesting Order
- Schedule B - Addresses of Premises
- Schedule C - Purchase Price Allocation

### **1.9 Applicable Law**

This Agreement shall be governed by, and interpreted and enforced in accordance with, the laws in force in Ontario (excluding any conflict of laws, rule or principle which might refer such interpretation to the laws of another jurisdiction). Each Party irrevocably submits to the exclusive jurisdiction of the Court with respect to any matter arising hereunder or related hereto.

### **1.10 Currency**

Unless specified otherwise, all statements of or references to dollar amounts in this Agreement are to Canadian dollars.

### **1.11 Third Party Beneficiaries**

Nothing in this Agreement or in any Closing Document is intended expressly or by implication to, or shall, confer upon any Person other than the Parties, any rights or remedies of any kind.

## **ARTICLE 2 PURCHASE AND SALE**

### **2.1 Purchase and Sale of Purchased Assets**

- (a) The Vendor shall sell, assign and transfer to the Purchaser and the Purchaser shall purchase the Purchased Assets on the Closing Date pursuant to the Vesting Order and the Purchaser shall pay the Purchase Price on the Closing Date, subject to the terms and conditions contained in this Agreement.

(b) The Purchaser hereby acknowledges to and in favour of the Vendor that the Purchaser has conducted its own investigations and inspections of the Purchased Assets and that the Purchaser is responsible to conduct its own inspections and investigations of all matters and things connected with or in any way related to the Purchased Assets, that the Purchaser has satisfied itself with respect to the Purchased Assets and all matters and things connected with or in any way related to the Purchased Assets, that the Purchaser has relied entirely upon its own investigation and inspections in entering into this Agreement, that the Purchaser is purchasing the Purchased Assets on an “as is, where is” basis as at the Closing Date, that the Purchaser will accept the Purchased Assets in their state, condition and location on Closing and that the Purchaser hereby acknowledges that the Vendor has made no representations, warranties, statements or promises, including as to the compliance with any Applicable Laws affecting the Transaction, save and except as are expressly contained in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties and representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) do not apply to the sale of the Purchased Assets and have been waived by the Purchaser. Except as expressly set out in this Agreement, no adjustment shall be allowed to the Purchaser for any changes in condition, quality or quantity of the Purchased Assets to and including the Closing Date. Except as specifically contemplated and provided for in this Agreement, the Purchaser acknowledges that the Vendor is not required to inspect or count, or provide any inspection or counting, of the Purchased Assets or any parts thereof and the Purchaser shall be deemed, at its own expense, to have relied entirely upon its own inspection and investigation of the Purchased Assets. Nothing contained herein shall require the Vendor, following Closing, to take possession of, protect, preserve, or otherwise safeguard any Purchased Assets.

(c) The Purchaser acknowledges and agrees that any and all information relating to the Purchased Assets (including any environmental report(s), if any, or any information memorandum given by the Vendor, the Company, or any other person to the Purchaser) was delivered to the Purchaser solely for the Purchaser’s convenience and there is no representation or warranty of any kind whatsoever made by the Vendor nor the Company or any other person with respect to the accuracy or completeness of any such information.

The descriptions of any of the Purchased Assets contained on the Schedules appended hereto are for the purposes of identification only and the Vendor is not liable for any error or omission in such Schedules.

(d) The Purchaser acknowledges that it shall be the Purchaser’s sole responsibility to obtain, at its own expense, and the Purchaser shall use its best efforts to obtain, any consents, approvals or any further documentation or assurances which may be required to be obtained by Purchaser (but not the Company or Vendor) to carry out the terms of this Agreement. Notwithstanding the foregoing, the

Vendor agrees to do such acts and shall execute such further documents, conveyances, deeds, assignments, transfers and the like, and will cause the doing of such acts and will cause the execution of such further documents as are within its power and as the Purchaser may reasonably request be done and or executed, in order to carry out the terms of this Agreement, but in so doing, shall not be required to incur any expense or liability (except as the Vendor in its absolute discretion sees fit).

- (e) The Purchaser shall assume, at its own cost, complete responsibility for compliance with all Applicable Laws in connection with the Purchased Assets, or the use thereof by the Purchaser, after the Closing Date.
- (f) The Purchaser shall be responsible for making all necessary arrangements for continued occupation of the Premises as assignee pursuant to the Lease.

## 2.2 Purchase Price & Purchased Assets

The Purchase Price for the Purchased Assets (save and except inventory as defined herein) as apportioned by the Purchaser on Appendix C (not including all applicable taxes, for which the Purchaser shall also be liable in accordance with Section 2.5) shall be [REDACTED]

## 2.3 Payment of Purchase Price

The Purchaser shall pay the Purchase Price to the Vendor as follows:

- (a) the sum of [REDACTED] shall be paid by wire transfer, delivery of certified funds or bank draft payable to the Vendor "in Trust", with the submission of this Agreement by the Purchaser to the Vendor and held by the Vendor as a deposit (the "**Deposit**") which shall be dealt with in accordance with Section 2.4; and
- (b) the balance of the Purchase Price together with the amount of the agreed inventory valuation shall be delivered to the Vendor at Closing payable in cash, by delivery of a certified cheque or bank draft or by wire transfer.

## 2.4 Deposit

- (a) The Deposit shall be paid and held in escrow by the Vendor, until the Closing Time, at which time the Deposit shall be applied on account of the Purchase Price or as otherwise provided for in this Agreement.
- (b) If this Agreement:

- (i) is terminated or the Closing otherwise fails to occur for any reason other than a breach by the Purchaser of its obligations under this Agreement, then the Purchaser shall be entitled to the return of the Deposit without interest within five (5) Business Days and the Purchaser shall have no recourse against the Receiver and this Agreement shall become null and void;
- (ii) is terminated or the Closing otherwise fails to occur as a result of the breach of the Purchaser of its obligations under this Agreement, then the Vendor shall be entitled to retain the Deposit as liquidated damages, and shall be entitled to pursue all of its other rights and remedies against the Purchaser.

## **2.5 Taxes**

The Purchaser shall be liable for and shall pay, in addition to the Purchase Price, all federal and provincial sales taxes and any other taxes or duties payable in connection with the conveyance and transfer of the right, title and interest, if any, of the Vendor in and to the Purchased Assets (collectively, the “**Taxes**”) to the Purchaser and the Purchaser undertakes and agrees to pay all such Taxes on Closing – provided that the Vendor and the Purchaser agree that the appropriate elections with respect to the payment of Taxes shall be made. By executing this Agreement, the Purchaser indemnifies and holds the Vendor harmless from and against any and all costs, expenses, liabilities and damages incurred or suffered by the Vendor as a result of the failure of the Purchaser to pay any of the Taxes exigible in connection with the Transaction which indemnity shall survive closing.

## **2.6 Time and Place of Closing**

The Closing shall take place on the Closing Date at the offices of the solicitors for the Vendor or as may otherwise be agreed between the Parties in writing.

## **2.7 The Closing**

### **2.7.1 Vendor’s Deliveries**

At Closing, the Vendor shall:

- (a) Upon the delivery of all of the Purchaser’s Deliveries as set out in Article 2.7.2, execute and deliver to the Purchaser the Receiver’s Certificate in the form appended as Schedule “A” to the Vesting Order;
- (b) deliver to the Purchaser the Approval Order and the Vesting Order;

- (c) deliver to the Purchaser a certificate dated as of the Closing Date, confirming that all of the representations and warranties of the Vendor contained in this Agreement are true as of the Closing Date, with the same effect as though made on and as of the Closing Date;
- (d) execute and deliver to the Purchaser a bill of sale in respect of the Purchased Assets on the terms contained herein, if requested; and
- (e) execute and deliver or cause to be executed and delivered such other documents, instruments or certificates as contemplated by this Agreement.

**2.7.2 Purchaser's Deliveries**

At Closing, the Purchaser shall:

- (a) deliver payment of the balance of the Purchase Price in accordance with Article 2;
- (b) execute and deliver or cause to be executed and delivered such other documents, instruments or certificates as the Vendor may reasonably request.
- (c) deliver to the Vendor an acknowledgement dated as of the Closing Date, that each of the conditions precedent in this Agreement in favour of the Purchaser have been fulfilled, performed or waived by the Purchaser as of the Closing Date;
- (d) execute and deliver or cause to be executed and delivered such other documents, instruments or certificates as contemplated by this Agreement.

**ARTICLE 3  
REPRESENTATIONS AND WARRANTIES**

**3.1 Representations and Warranties of the Vendor**

The Vendor represents and warrants to the Purchaser as follows and acknowledges that the Purchaser is relying upon such representations and warranties in entering into this Agreement:

- (a) The Vendor has been appointed Receiver of the Company pursuant to the Appointment Order.
- (b) The Vendor has done no act to dispose of or encumber any of the Purchased Assets.

### 3.2 Representations and Warranties of the Purchaser

The Purchaser represents and warrants to the Vendor as follows and acknowledges that the Vendor is relying upon such representations and warranties in entering into this Agreement:

- (a) The Purchaser is a corporation duly incorporated, organized, and validly existing under the laws of its jurisdiction of incorporation. No proceedings have been taken or authorized by the Purchaser or, to the best of the Purchaser's knowledge, by any other Person, with respect to the bankruptcy, insolvency, liquidation, dissolution or winding up of the Purchaser.
- (b) The Purchaser has all necessary power and capacity to execute and deliver, and to observe and perform its covenants and obligations under, this Agreement and the Closing Documents to which it is a party. The Purchaser has taken all corporate action necessary to authorize the execution and delivery of, and the observance and performance of, its covenants and obligations under this Agreement and the Closing Documents to which it is or shall be a party.
- (c) This Agreement has been, and each Closing Document to which the Purchaser is a party will on Closing be, duly executed and delivered by the Purchaser, and this Agreement constitutes, and each Closing Document to which the Purchaser is a party will, on Closing, constitute, a valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms.
- (d) The Purchaser is in good standing with the College and with the Ontario Ministry of Health.
- (e) The Purchaser is not a non-Canadian within the meaning of the *Investment Canada Act* (Canada).

### 3.3 Interpretation

Each representation and warranty made by a Party in this Agreement shall be treated as a separate representation and warranty in respect of each statement made and the interpretation of any statement made shall not be restricted by reference to, or inference from, any other statement made in a representation and warranty of such Party.

### 3.4 Commission

Each Party represents and warrants to each other Party that no other Party will be liable for any brokerage commission, finder's fee or other similar payment in connection with the transactions contemplated hereby because of any action taken by, or agreement or understanding reached by, that Party.

### **3.5 Survival of Representations and Warranties**

All representations, warranties, statements, covenants and agreements made by the Purchaser in this Agreement or any Closing Document shall survive the Closing indefinitely.

## **ARTICLE 4 CONDITIONS PRECEDENT**

### **4.1 Conditions of Closing**

Either the Purchaser or the Vendor shall be obliged to complete the Closing only if each of the conditions precedent set out below in Sections 4.1.1 through 4.1.10 inclusive, has been satisfied in full at or before the Closing Time.

#### **4.1.1 Accuracy of Representations and Performance of Covenants**

At the Closing Time, all of the representations and warranties of each of the Purchaser and the Vendor made in or pursuant to this Agreement shall be true and correct as if made at and as of the Closing Time (regardless of the date as of which the information in this Agreement or in any schedule or other document made pursuant hereto is given) except as such representations or warranties may be affected by the appeal of any court order referred to herein. At the Closing Time, each of the Purchaser and the Vendor shall have observed or performed in all respects all of the obligations, covenants and agreements which it must perform at or before the Closing Time. Each of the Purchaser and the Vendor shall have received immediately prior to the Closing Time a certificate from the other certifying, to the best of its knowledge, information and belief (after due enquiry) that the conditions in this Section 4.1.1 to be satisfied by it have been satisfied.

#### **4.1.2 Litigation**

No Order shall have been entered that prohibits or restricts the Closing. Neither of the Parties, nor any of their respective directors, officers, employees, or agents, shall be a defendant or third party to or threatened with any litigation or proceedings, before any court or Governmental Authority which, in the opinion of either the Purchaser or the Vendor, acting reasonably, could prevent or restrict that Party from performing any of its obligations in this Agreement or any Closing Document, including the appeal or any threatened appeal of the Vesting Order or the Approval Order.

#### **4.1.4 Receipt of Closing Documentation**

All documentation relating to the sale and purchase of the Purchased Assets and such other Closing Documents relating to the due authorization and completion of the sale and purchase and all actions and proceedings taken on or prior to the Closing in connection with the performance by the Purchaser and the Vendor of their obligations under this Agreement shall be satisfactory to each of the Purchaser, the Vendor and



their respective counsel, as applicable. Each of the Purchaser and the Vendor shall have received copies of the Closing Documents and all such documentation or other evidence as it may reasonably request in order to establish the consummation of the transactions contemplated hereby and the taking of all corporate proceedings in connection therewith in form (as to certification and otherwise) and substance satisfactory to each of the Purchaser, the Vendor and their respective counsel.

#### **4.1.5 Orders**

The Vendor shall have obtained the Vesting Order and the Approval Order. The Vendor shall not have received notice of appeal in respect to of the Approval Order and the Vesting Order and the Approval Order and the 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;

#### **4.1.6 No Removal of Purchased Assets**

The Fixed Assets or any material portion thereof, shall not have been removed from the control of the Vendor since the date of the Appointment Order, by any means or process and no party shall have taken any action to redeem any of the Fixed Assets.

#### **4.1.7 Cancellation of Insurance**

Except as expressly contemplated herein, all insurance maintained by the Vendor on behalf of the Company shall be cancelled by the Vendor on the Closing Date and the Purchaser shall be responsible for placing its own insurance with respect to the Business from and after the Closing Date.

#### **4.1.8 Assignment of the Lease**

If consent to assignment by the Vendor is required under the Lease, (i) the landlord under the Lease shall have consented to the assignment of the Lease by the Vendor to the Purchaser, or (ii) the Vendor shall have obtained an Order authorizing and compelling such assignment.

#### **4.1.9 Registration**

The Purchaser shall have obtained the appropriate registrations with the Ontario Drug Plan and the College within 30 days of the date of this Agreement.

#### **4.1.10 Financing**

The obligation of the Purchaser to complete the purchase of the Purchased Assets hereunder shall be subject to the fulfillment of the following condition until fourteen

(14) business days following execution by both parties (which is hereby acknowledged to be inserted for the exclusive benefit of the Purchaser and may be waived by it in whole or in part).

Upon the Purchaser arranging financing for this purchase on terms and conditions acceptable to the Purchaser in his sole discretion;

**4.2 Waiver**

Any Party may waive, by notice to the other Parties, any condition set forth in this Article 4 which is for its benefit. No waiver by a Party or any condition, in whole or in part, shall operate as a waiver of any other condition.

**4.3 Failure to Satisfy Conditions**

If any condition set forth in Article 4 is not satisfied at the Closing Time, the Party entitled to the benefit of such condition (the "**First Party**") may terminate this Agreement by notice in writing to the other Party and in such event the Parties shall be released from all obligations hereunder and all deposit monies shall be returned to the Purchaser forthwith without deduction

**ARTICLE 5**

**5.1 Access**

The Vendor agrees to allow the Purchaser and the Purchaser's authorized representatives accompanied by the Listing Broker, as defined herein, access to the Purchased Assets on two occasions prior to closing during normal business hours to inspect the Purchased Assets and make arrangements for closing. The Purchaser covenants and agrees to (i) repair or pay the cost of repair of any damage occasioned during and resulting from the inspection of the Purchased Assets conducted by the Purchaser or its authorized representatives, as outlined above and to return the Purchased Assets to the condition they were in prior to such inspections; and (ii) indemnify and save the Vendor harmless from and against all losses, costs, claims, third party claims, damages, expenses (including legal costs as between a solicitor and its own client) which the Vendor may suffer as a result of the inspection of the Purchased Assets conducted by the Purchaser or its authorized representatives, as outlined above or as a result of any unauthorized tests or inspections by a Government Authority. The provisions of this Section 5.1 shall survive Closing or other termination of this Agreement, notwithstanding any other provisions hereof.

**5.2 Non-Disclosure of Transaction**

The Purchaser agrees that it will not and will cause its officers, directors, employees, representatives and advisors not to, disclose or permit to be disclosed to any Person, any information relating to the Purchase Price or any of the other terms of this Agreement until after closing, other than to the equity holders of the Purchaser and

Persons solicited by the Purchaser to provide financing in connection with the Transaction (and the Purchaser shall ensure, for the benefit of the Vendor, that such parties shall treat all such information in the strictest confidence and the Purchaser shall indemnify the Vendor in that regard).

### 5.3 Inventory

The Purchaser agrees that the value of the inventory to be paid over and above the purchase price shall be determined pursuant to an inventory count by a third party consultant as existing on the day prior to the Closing Date ("**Inventory Valuation**"), which shall be provided by the Vendor to the Purchaser on the day of Closing. It is expressly acknowledged and agreed that:

(a) both the Vendor and the Purchaser are entitled to observe the Inventory Valuation, but any costs incurred in so doing are for each Party's own account;

(b) the parties agree that the cost of the Inventory Valuation shall be borne by the parties equally;

(c) the Purchaser's share of the cost of the inventory count shall be added to the amount to be paid pursuant to the Inventory Valuation;

(d) the inventory count shall take place the night before the Closing Date;

(e) The value of the inventory shall be determined as follows: (i) all Non ODB generic name inventory to be discounted by 50% off cost price and brand name Inventory at 4% off cost price; (ii) store front inventory to be valued at 35% off the retail price; (iii) all over the counter inventory to be valued at 35% off retail price; (iv) Home Health Care inventory, if any, to be discounted at 50% off the retail price (v) any inventory stock with an expiry date of 90 days or less and any obsolete or damaged inventory shall be valued at nil; and (vi) all other inventory to be calculated at cost price; and

(f) the sales of Inventory on the Closing Date shall be for the account of the Purchaser provided the Closing has occurred.

### 5.4 Computers

The Purchaser shall allow the Vendor to maintain possession of such portion of the computer systems and related equipment, both hardware and software (the "**Computers**") as the Vendor may reasonably require for such period of time following Closing as may be reasonably required by the Vendor to complete its administration of the receivership of the Company at which time, the Vendor shall forthwith deliver up possession of the Computers to the Purchaser.

**5.5 Risk of Loss**

Up to the time of the Closing, the Purchased Assets shall be and remain at the risk of the Vendor. If, prior to the time of the Closing, all or any material part of the Purchased Assets are substantially destroyed or damaged by fire or any other casualty or shall be expropriated, the Purchaser shall have the option, exercisable by notice in writing given within two (2) Business Days of the Purchaser receiving notice in writing from the Vendor of such destruction, damage or expropriation:

- (a) to complete the purchase without reduction of the Purchase Price and all proceeds of insurance or compensation for expropriation shall be payable to the Purchaser and all right and claim of the Vendor to any such amounts not paid by the time of the Closing shall be assigned by the Vendor to the Purchaser; or
- (b) of terminating this Agreement and not completing the purchase, in which case all obligations of the Purchaser and the Vendor hereunder, other than those pursuant to Section 5.1, shall terminate and the Deposit shall be returned to the Purchaser.

For greater certainty, where any damage is not substantial, the Purchaser shall be obliged to complete this Agreement, without deduction, and shall be entitled to the proceeds of insurance, if any, in connection with such damage.

**5.6 Records**

The Purchaser agrees to maintain the Records for a period of at least seven (7) years following the Closing and shall provide access to the Vendor to such records, as the Vendor may reasonably require to complete its administration of the receivership of the Company.

**ARTICLE 6  
GENERAL****6.1 Expenses**

Each Party shall pay all expenses it incurs in authorizing, preparing, executing and performing any aspect of the Transaction contemplated by this Agreement, whether or not the Closing occurs, including all fees and expenses of its legal counsel, bankers, investment bankers, brokers, accountants or other representatives or consultants.

**6.2 Time**

Time is of the essence of each provision of this Agreement.

**6.3 Notices**

Any notice, demand or other communication (in this Section, a “notice”) required or permitted to be given or made hereunder shall be given in writing and addressed as follows:

(a) In the case of a notice to the Vendor, addressed to it at:

MSI SPERGEL INC., in its capacity as the Court appointed Receiver of all of the property and assets of Bless Hui Pharma Inc.  
200-505 Consumers Road, Toronto, ON M2J 4V8  
Attention: Philip H. Gennis  
Tel.: 416-498-4325  
Fax: 416-498-4325  
Email: pgennis@spergel.ca

and with a further copy to its counsel at:  
Goldman, Spring, Nash and Haber (Brendan Bissell)  
480 University Avenue, Suite 1600  
Toronto, ON M5G1V2  
Attention: Brendan Bissell  
Tel: (416) 597-6489  
Fax: (416) 597-9922  
Email: bissell@gsnh.com

(b) In the case of the Purchaser:

          Raouf Basilious  
          5 Heathmont Crt  
          Richmond Hill,  
          Ontario  
          L4E 1C2

Attention: \_\_\_\_\_  
Tel.: 416-270-7793 \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: ~~spvq/on jA hn bjv/pn~~ \_\_\_\_\_

and with a further copy to its counsel at:

          GGD Law Professional Corporation  
          100-100 Cowdray Court  
          Toronto  
          Ontario  
          M1S 5C8

Attention: Isaac Grubner \_\_\_\_\_  
Tel.: 416-292-0414 \_\_\_\_\_  
Fax: 416-292-4508 \_\_\_\_\_  
Email: [igrubner@gglawyers.ca](mailto:igrubner@gglawyers.ca) and [gnglawservices@gmail.com](mailto:gnglawservices@gmail.com) \_\_\_\_\_

Any such notice, if personally delivered, shall be deemed to have been validly and effectively given and received on the Business Day of such delivery and if sent by telecopier or other electronic communication with confirmation of transmission, shall be deemed to have been validly and effectively given and received on the Business Day next following the day it was received.

#### **6.4 Public Announcements / Confidentiality of Agreement**

Before the Closing Date, the Purchaser shall make no public statement or issue any press release concerning the transactions contemplated by this Agreement except as may be necessary to comply with the requirements of all Applicable Law. If any such public statement or release is so required, the Purchaser shall consult with the other Parties prior to making such statement or release, and the Parties shall use all reasonable efforts, acting in good faith, to agree upon a text for such statement or release which is satisfactory to all Parties. The Parties expressly acknowledge and agree that this Agreement shall not become public until after Closing.

#### **6.5 Assignment**

- (a) The Purchaser shall have the right to assign this Agreement to a company to be incorporated without the Vendor's consent, within 7 days of acceptance of this Agreement and upon such assignment the original purchaser shall be relieved of all liability hereunder. The Purchaser may not further assign any or all rights or benefits under this Agreement to any Person without the Vendor's written consent which consent shall be in the Vendor's sole discretion. If the Purchaser wishes to assign this agreement after the grant of the Vesting Order and the Vendor consents in its sole discretion, the Purchaser shall pay all of the costs incurred by the Vendor on a solicitor and its own client scale in connection with all proceedings to amend the Approval and Vesting Order or otherwise provide for vesting in the assignee.
- (b) Except as provided in Section 6.5(a), no assignment of benefits or arrangement for substituted performance by one Party shall be of any effect.
- (c) This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors (including any successor by reason of amalgamation or statutory arrangement of any Party) and permitted assigns.

#### **6.6 Further Assurances**

Each Party shall do such acts and shall execute such further documents, conveyances, deeds, assignments, transfers and the like, and will cause the doing of

such acts and will cause the execution of such further documents as are within its power as any other Party may in writing at any time and from time to time reasonably request be done and or executed, in order to give full effect to the provisions of this Agreement and each Closing Document.

**6.7 Remedies Cumulative**

The rights and remedies of the Parties under this Agreement are cumulative and in addition to and not in substitution for any rights or remedies provided by law. Any single or partial exercise by any Party hereto of any right or remedy for default or breach of any term, covenant or condition of this Agreement does not waive, alter, affect or prejudice any other right or remedy to which such Party may be lawfully entitled for the same default or breach.

**6.8 Counterparts**

This Agreement may be executed in any number of counterparts. Each executed counterpart shall be deemed to be an original. All executed counterparts taken together shall constitute one agreement.

**IN WITNESS WHEREOF** this Agreement has been executed by the as of the date first indicated.

Per:



---

Name: Raouf Basilius in trust for  
a company to be  
incorporated

**IN WITNESS WHEREOF** this Agreement has been executed by the Vendor as of the date first indicated.

**MSI SPERGEL INC.**, solely in its capacity as  
the Court appointed Receiver of  
Bless Hui Pharma Inc., o/a Hui's  
Global Health Pharmacy  
and not in any other capacity and  
with no personal or corporate  
liability

Per:



\_\_\_\_\_  
Name: Mukul Manchanda, CPA, CIRP, LIT

Title: Managing Partner

I/We have the authority to bind the  
corporation



**SCHEDULE A**

**Approval and Vesting Order**

Court File No. CV-20-00650853-00CL

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

THE HONOURABLE ) WEEKDAY, THE #  
 )  
JUSTICE ) DAY OF MONTH, 2021  
 )

B E T W E E N:

1951584 Ontario Inc. (formerly DESANTE FINANCIAL SERVICES INC.) and  
CWB MAXIUM FINANCIAL INC.

Applicants

- and -

4231 SHEPPARD AVENUE EAST INC., ABU SEIFEIN BRIMLEY PHARMA INC., BLESS  
HUI PHARMA INC., JG WINDSOR INC., JM WESTVIEW PHARMA INC., JUBILEE  
PROPERTY INVESTMENTS INC., MAPLE MEDI PHARMA INC., RIVER HILL  
PHARMACY LTD., SJ EAST PHARMA INC., ST. MARY COOKSVILLE PHARMA INC.,  
ST. MARY THEOTOKOS PHARMA INC., STONEY CREEK PHARMA INC., TORONTO  
APOTHECARY PHARMA INC., WESTWAY HOLDINGS INC. AND OLDE  
WALKERVILLE HOLDINGS INC.

Respondents

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by msi Spergel Inc. in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of the Respondents, including Bless Hui Pharma Inc. (the “**Debtor**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Receiver and • (the “**Purchaser**”) dated • and appended to the • Report of the Receiver dated • (the “• **Report**”), and vesting in the Purchaser the Debtor’s right, title and interest in and to the assets described in the Sale Agreement (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, and counsel for • , no one appearing for any other person on the service list, although properly served as appears from the affidavit of service, filed:

1. THIS COURT ORDERS that the time for service of the motion record in respect of this motion and the • Report is hereby abridged and validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.

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

3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described as such in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by orders of this court in this proceeding; (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 B hereto, as the case may be (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 C) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

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

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

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

7. THIS COURT ORDERS that, notwithstanding:

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

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

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

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

9. THIS COURT 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.

10. THIS COURT ORDERS that this order is effective as of its date and does not need to be issued and entered.

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

Court File No. CV-20-00650853-00CL

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**COMMERCIAL LIST**

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

1951584 Ontario Inc. (formerly DESANTE FINANCIAL SERVICES INC.) and  
CWB MAXIUM FINANCIAL INC.

Applicants

- and -

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APOTHECARY PHARMA INC., WESTWAY HOLDINGS INC. AND OLDE  
WALKERVILLE HOLDINGS INC.

Respondents

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable • of the Ontario Superior Court of Justice (the “**Court**”) dated •, msi Spergel Inc. was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of the Respondents, including Bless Hui Pharma Inc. (the “**Debtor**”).

B. Pursuant to an Order of the Court dated •, the Court approved the agreement of purchase and sale made as of • (the “**Sale Agreement**”) between the Receiver, the Debtor and • (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtor’s right, title and

interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section • of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

THE RECEIVER CERTIFIES the following:

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

**msi Spergel Inc., in its capacity as Receiver of the undertaking, property and assets of Bless Hui Pharma Inc., and not in its personal capacity**

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

**Schedule B – Specific Claims to be deleted and expunged from the Purchased Assets (non-limitative)**

- Any Kohl & Frisch Limited security registered under *Personal Property Security Act* (Ontario) (“PPSA”) registration number 20180502 1146 1862 2090.
- Any McKesson Canada Corporation security registered under PPSA registration number 20170321 1708 1462 0920 and 20170321 1708 1462 0921.
- Any CWB Maxium Financial Inc. security registered under PPSA registration number 20170131 1034 1529 8037.
- Including any assignment, as the case may be.



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**Schedule C – Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Purchased Assets**

**(unaffected by the Vesting Order)**

- Assumed Contracts (as defined in the Sale Agreement, as the case may be).

**SCHEDULE B**

**Addresses of Premises**

**Q-280 Spadina Avenue, Toronto, Ontario**

**SCHEDULE C**

**PURCHASE PRICE ALLOCATION**

Bless Hui Pharma Inc.- Prescriptions and Goodwill	\$850,000.00
Bless Hui Pharma Inc.– Fixtures and Equipment	\$150,000.00

# **APPENDIX 15**

**PHARMACY PURCHASE AGREEMENT**

**RIVER HILL PHARMACY LTD., O/A RIVER HILL PHARMACY**

**THIS AGREEMENT** is made as of the 14<sup>th</sup> day of June, 2021.

**BETWEEN:**

**MSI SPERGEL INC.**, solely in its capacity as court-appointed Receiver of all of the property and assets of River Hill Pharmacy Ltd., o/a River Hill Pharmacy (the "**Company**") and not in any other capacity and with no personal or corporate liability

(hereinafter called the "**Vendor**")

**OF THE FIRST PART**

- and -

Raouf Basilius in trust for a company to be incorporated

(hereinafter called the "**Purchaser**")

**OF THE SECOND PART**

**RECITALS:**

Whereas:

- A. Pursuant to the Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) in Court File No. CV-20-00650853-00CL ( the "**Proceedings**"), dated November 25, 2020 as amended and re-stated by a further Order of the Court dated February 3, 2021 (the "**Appointment Order**"), the Vendor was appointed as Receiver of all the assets, property and undertaking (the "**Assets**") of the Company
- B. Pursuant to the Appointment Order, the Vendor is authorized to sell the Assets and apply for an order of the Court approving the sale of the Assets and vesting title to the Assets in the Purchaser.
- C. Subject to an order being issued by the Court approving the sale of the Purchased Assets (defined herein) and pursuant to the terms of this Agreement, the Purchaser has offered to purchase the Purchased Assets and the Vendor has accepted such an offer on the terms and conditions contained herein.

**NOW THEREFORE IN CONSIDERATION** of the premises and the mutual agreements in this Agreement, and for other consideration (the receipt and sufficiency of which are acknowledged by each Party), the Parties agree as follows.

**ARTICLE 1  
INTERPRETATION**

**1.1 Definitions**

In this Agreement:

**“Agreement”** means this asset purchase agreement resulting from the acceptance, by the Vendor, of the offer provided for in Section **Error! Reference source not found.** and all Schedules attached hereto and the terms “hereof” and “hereto” refer to this Agreement as a whole and references to “Section” and “subsection” mean the relevant section or subsection of this Agreement unless the context specifically indicates otherwise;

**“Applicable Law”** means any domestic or foreign statute, law (including the common law), ordinance, rule, regulation, restriction, regulatory policy or guideline, by-law (zoning or otherwise), or Order, or any consent, exemption, approval or License of any Governmental Authority, that applies in whole or in part to the Transaction, the Vendor, the Purchaser, the Company, the Business, the manner in which the Business is carried on or to any of the Purchased Assets;

**“Appointment Order”** means the order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice dated November 25, 2020, appointing the Vendor as Receiver of all of the assets, property and undertaking of the Company, including the Purchased Assets, pursuant to section 243 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.C43, as amended (the **“CJA”**)

**“Approval Order”** means an order or orders of the Court in a form substantially in accordance with Schedule A authorizing and approving the Transaction contemplated under this Agreement (and which Order may, at the option of the Vendor, be combined, in one Order, with the Vesting Order);

**“Assets”** has the meaning given in recital A;

**“BIA”** means the *Bankruptcy and Insolvency Act* of Canada as the same may be amended from time to time;

**“Business”** means the retail pharmacy business of the Company;

**“Business Day”** means a day other than a Saturday or Sunday, on which Canadian chartered banks are open for the transaction of domestic business in Toronto, Ontario;

**“Claims”** shall have the meaning ascribed thereto in the Vesting Order;

**“Closing”** means the completion of the sale to, and purchase by the Purchaser of, the Purchased Assets in accordance with the terms of this Agreement;

**“Closing Date”** means ten (10) Business Days after the Court grants the Approval Order and the Vesting Order or such other date as the parties hereto agree to in writing;

**“Closing Document”** means any document delivered at or subsequent to the Closing Time as provided in or pursuant to this Agreement;

**“College”** means the Ontario College of Pharmacists;

**“Company”** has the meaning given in the listing of the Parties of the First Part;

**“Contracts”** means the full benefit and advantage of all contracts, agreements and entitlements of the Company relating to the Business [other than the interest of any of the Company in any of the Accounts Receivable, the Inventory, the Fixed Assets, the Equipment Leases, the Goodwill, the Records, Intellectual Property, and/or the leasehold interest of the Company in the Premises];

**“Closing Time”** means 10:00 am Toronto time on the Closing Date or such other time on the Closing Date as the Parties agree in writing that the Closing shall take place;

**“Court”** means the Ontario Superior Court of Justice (Commercial List);

**“Deposit”** has the meaning set out in Section 2.3;

**“Encumbrances”** shall have the meaning ascribed to thereto in the Vesting Order;

**“Excluded Assets”** means (i) any Assets not specifically included as part of the Purchased Assets, and (ii) for greater certainty, includes the Real Property, bank accounts of the Company, cash on hand or cash equivalents at Closing;

**“Fixed Assets”** means all of the fixed assets, machinery, equipment, computers, furniture, furnishings and vehicles owned by the Company together with all operating manuals, maintenance logs, and equipment drawings and specifications in the possession of the Vendor;

**“Goodwill”** means the goodwill of the Company included in the Purchased Assets, including the right to carry on its Business as successor thereto and the use of all telephone numbers and facsimile numbers used in its Business, patient lists and related prescription lists, trade name and customer and supplier lists;

**“Governmental Authority”** means any domestic or foreign government whether federal, provincial, state or municipal and any governmental agency, governmental authority, governmental tribunal or governmental commission of any kind whatever;

**“including”** means **“including without limitation”** and the term **“including”** shall not be construed to limit any general statement which it follows to the specific or similar items or matters immediately following it;

**“Intellectual Property”** means all of the patents, trade names, trademarks and other intellectual property and the Goodwill appurtenant thereto to the extent same comprises property of the Company included in the Purchased Assets as of the Closing Date, any and all other patents, trade names, trademarks and other intellectual property and the goodwill appurtenant thereto together with all documents, drawings, and technical data in the possession of the Vendor;

**“Inventory”** means – subject to the reconciliation provisions hereof (including Section 5.3) - all inventories of every kind and nature and wheresoever situated of our relating to the Business including, but not limited to , pharmaceuticals, over-the-counter medications, front-of-counter sundries, tobacco products but does not, if applicable, include lottery tickets or related products.

**“Inventory Valuation”** has the meaning set out in Section 5.3;

**“Lease”** means the lease between the Vendor and the landlord of the Premises, which is occupied by the Company pursuant to the lease disclosed to the Purchaser in the data room for the sale process;

**“License”** means any license, permit, approval, right, privilege, concession or franchise in respect of the Business;

**“Listing Broker”** means Maged Bebawy or another representative of REMAX West Realty Inc.

**“Order”** means any order (draft or otherwise), judgment, injunction, decree, award or writ of any court, tribunal, arbitrator, Governmental Authority, or other Person;

**“Parties”** means the Purchaser and the Vendor collectively, and **“Party”** means any one of them;

**“Permitted Encumbrances”** shall mean those encumbrances listed in the Approval and Vesting Order attached as Schedule “A”

**“Person”** or **“person”** shall be broadly interpreted and includes an individual, body corporate, partnership, joint venture, trust, association, unincorporated organization, the Crown, any Governmental Authority or any other entity recognized by law;

**“Premises”** means the premises as listed in Schedule B;

**“Purchase Price”** means the purchase price payable for the Purchased Assets pursuant to Section 2.2 ;

**“Purchased Assets”** means, subject to the terms hereof (including the terms with respect to reconciliation of Inventory), all of the interest of the Company in the retail pharmacy business, including but not limited to Fixed Assets, Intellectual Property, the Lease, and Inventory, but not including any Excluded Assets;



**“Related Person”** has the meaning in the *Bankruptcy and Insolvency Act*, 1985, c. B-3, as amended;

**“Records”** means all of the records relating exclusively to the Business consisting of operating data, files, books and records, correspondence, materials and contract documents;

**“Transaction”** means the transaction of purchase and sale contemplated pursuant to this Agreement;

**“Vesting Order”** means an order or orders of the Court in a form substantially in accordance with Schedule A ordering that the right, title and interest of the Company in the Purchased Assets be vested in the Purchaser free and clear of any right, title or interest of Claims and Encumbrances, except for Permitted Encumbrances.

## **1.2 Statutes**

Unless specified otherwise, reference in this Agreement to a statute refers to that statute as it may be amended or to any restated or successor legislation of comparable effect.

## **1.3 Headings**

The division of this Agreement into articles, Sections, subsections and schedules and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

## **1.4 Number and Gender**

In this Agreement, words in the singular include the plural and vice-versa and words in one gender include all genders.

## **1.5 Entire Agreement**

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of or between the Parties.

## **1.6 Amendment**

This Agreement may only be amended, modified or supplemented by a written agreement signed by each Party.

## **1.7 Waiver of Rights**

Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

## **1.8 Schedules**

The following Schedules form part of this Agreement:

- Schedule A - Form of Approval and Vesting Order
- Schedule B - Addresses of Premises
- Schedule C - Purchase Price Allocation

## **1.9 Applicable Law**

This Agreement shall be governed by, and interpreted and enforced in accordance with, the laws in force in Ontario (excluding any conflict of laws, rule or principle which might refer such interpretation to the laws of another jurisdiction). Each Party irrevocably submits to the exclusive jurisdiction of the Court with respect to any matter arising hereunder or related hereto.

## **1.10 Currency**

Unless specified otherwise, all statements of or references to dollar amounts in this Agreement are to Canadian dollars.

## **1.11 Third Party Beneficiaries**

Nothing in this Agreement or in any Closing Document is intended expressly or by implication to, or shall, confer upon any Person other than the Parties, any rights or remedies of any kind.

# **ARTICLE 2 PURCHASE AND SALE**

## **2.1 Purchase and Sale of Purchased Assets**

- (a) The Vendor shall sell, assign and transfer to the Purchaser and the Purchaser shall purchase the Purchased Assets on the Closing Date pursuant to the Vesting Order and the Purchaser shall pay the Purchase Price on the Closing Date, subject to the terms and conditions contained in this Agreement.

(b) The Purchaser hereby acknowledges to and in favour of the Vendor that the Purchaser has conducted its own investigations and inspections of the Purchased Assets and that the Purchaser is responsible to conduct its own inspections and investigations of all matters and things connected with or in any way related to the Purchased Assets, that the Purchaser has satisfied itself with respect to the Purchased Assets and all matters and things connected with or in any way related to the Purchased Assets, that the Purchaser has relied entirely upon its own investigation and inspections in entering into this Agreement, that the Purchaser is purchasing the Purchased Assets on an “as is, where is” basis as at the Closing Date, that the Purchaser will accept the Purchased Assets in their state, condition and location on Closing and that the Purchaser hereby acknowledges that the Vendor has made no representations, warranties, statements or promises, including as to the compliance with any Applicable Laws affecting the Transaction, save and except as are expressly contained in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties and representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) do not apply to the sale of the Purchased Assets and have been waived by the Purchaser. Except as expressly set out in this Agreement, no adjustment shall be allowed to the Purchaser for any changes in condition, quality or quantity of the Purchased Assets to and including the Closing Date. Except as specifically contemplated and provided for in this Agreement, the Purchaser acknowledges that the Vendor is not required to inspect or count, or provide any inspection or counting, of the Purchased Assets or any parts thereof and the Purchaser shall be deemed, at its own expense, to have relied entirely upon its own inspection and investigation of the Purchased Assets. Nothing contained herein shall require the Vendor, following Closing, to take possession of, protect, preserve, or otherwise safeguard any Purchased Assets.

(c) The Purchaser acknowledges and agrees that any and all information relating to the Purchased Assets (including any environmental report(s), if any, or any information memorandum given by the Vendor, the Company, or any other person to the Purchaser) was delivered to the Purchaser solely for the Purchaser’s convenience and there is no representation or warranty of any kind whatsoever made by the Vendor nor the Company or any other person with respect to the accuracy or completeness of any such information.

The descriptions of any of the Purchased Assets contained on the Schedules appended hereto are for the purposes of identification only and the Vendor is not liable for any error or omission in such Schedules.

(d) The Purchaser acknowledges that it shall be the Purchaser’s sole responsibility to obtain, at its own expense, and the Purchaser shall use its best efforts to obtain, any consents, approvals or any further documentation or assurances which may be required to be obtained by Purchaser (but not the Company or Vendor) to carry out the terms of this Agreement. Notwithstanding the foregoing, the

Vendor agrees to do such acts and shall execute such further documents, conveyances, deeds, assignments, transfers and the like, and will cause the doing of such acts and will cause the execution of such further documents as are within its power and as the Purchaser may reasonably request be done and or executed, in order to carry out the terms of this Agreement, but in so doing, shall not be required to incur any expense or liability (except as the Vendor in its absolute discretion sees fit).

- (e) The Purchaser shall assume, at its own cost, complete responsibility for compliance with all Applicable Laws in connection with the Purchased Assets, or the use thereof by the Purchaser, after the Closing Date.
- (f) The Purchaser shall be responsible for making all necessary arrangements for continued occupation of the Premises as assignee pursuant to the Lease.

## **2.2 Purchase Price & Purchased Assets**

The Purchase Price for the Purchased Assets (save and except inventory as defined herein) as apportioned by the Purchaser on Appendix C (not including all applicable taxes, for which the Purchaser shall also be liable in accordance with Section 2.5) shall be [REDACTED]

## **2.3 Payment of Purchase Price**

The Purchaser shall pay the Purchase Price to the Vendor as follows:

- (a) the sum of [REDACTED] shall be paid by wire transfer, delivery of certified funds or bank draft payable to the Vendor "in Trust", with the submission of this Agreement by the Purchaser to the Vendor and held by the Vendor as a deposit (the "**Deposit**") which shall be dealt with in accordance with Section 2.4; and
- (b) the balance of the Purchase Price together with the amount of the agreed inventory valuation shall be delivered to the Vendor at Closing payable in cash, by delivery of a certified cheque or bank draft or by wire transfer.

## **2.4 Deposit**

- (a) The Deposit shall be paid and held in escrow by the Vendor, until the Closing Time, at which time the Deposit shall be applied on account of the Purchase Price or as otherwise provided for in this Agreement.
- (b) If this Agreement:
  - (i) is terminated or the Closing otherwise fails to occur for any reason other than a breach by the Purchaser of its obligations under this Agreement, then the Purchaser shall be entitled to the return of the Deposit without

interest within five (5) Business Days and the Purchaser shall have no recourse against the Receiver and this Agreement shall become null and void;

- (ii) is terminated or the Closing otherwise fails to occur as a result of the breach of the Purchaser of its obligations under this Agreement, then the Vendor shall be entitled to retain the Deposit as liquidated damages, and shall be entitled to pursue all of its other rights and remedies against the Purchaser.

## **2.5 Taxes**

The Purchaser shall be liable for and shall pay, in addition to the Purchase Price, all federal and provincial sales taxes and any other taxes or duties payable in connection with the conveyance and transfer of the right, title and interest, if any, of the Vendor in and to the Purchased Assets (collectively, the “**Taxes**”) to the Purchaser and the Purchaser undertakes and agrees to pay all such Taxes on Closing – provided that the Vendor and the Purchaser agree that the appropriate elections with respect to the payment of Taxes shall be made. By executing this Agreement, the Purchaser indemnifies and holds the Vendor harmless from and against any and all costs, expenses, liabilities and damages incurred or suffered by the Vendor as a result of the failure of the Purchaser to pay any of the Taxes exigible in connection with the Transaction which indemnity shall survive closing.

## **2.6 Time and Place of Closing**

The Closing shall take place on the Closing Date at the offices of the solicitors for the Vendor or as may otherwise be agreed between the Parties in writing.

## **2.7 The Closing**

### **2.7.1 Vendor’s Deliveries**

At Closing, the Vendor shall:

- (a) Upon the delivery of all of the Purchaser’s Deliveries as set out in Article 2.7.2, execute and deliver to the Purchaser the Receiver’s Certificate in the form appended as Schedule “A” to the Vesting Order;
- (b) deliver to the Purchaser the Approval Order and the Vesting Order;
- (c) deliver to the Purchaser a certificate dated as of the Closing Date, confirming that all of the representations and warranties of the Vendor contained in this Agreement are true as of the Closing Date, with the same effect as though made on and as of the Closing Date;

- (d) execute and deliver to the Purchaser a bill of sale in respect of the Purchased Assets on the terms contained herein, if requested; and
- (e) execute and deliver or cause to be executed and delivered such other documents, instruments or certificates as contemplated by this Agreement.

**2.7.2 Purchaser's Deliveries**

At Closing, the Purchaser shall:

- (a) deliver payment of the balance of the Purchase Price in accordance with Article 2;
- (b) execute and deliver or cause to be executed and delivered such other documents, instruments or certificates as the Vendor may reasonably request.
- (c) deliver to the Vendor an acknowledgement dated as of the Closing Date, that each of the conditions precedent in this Agreement in favour of the Purchaser have been fulfilled, performed or waived by the Purchaser as of the Closing Date;
- (d) execute and deliver or cause to be executed and delivered such other documents, instruments or certificates as contemplated by this Agreement.

**ARTICLE 3  
REPRESENTATIONS AND WARRANTIES**

**3.1 Representations and Warranties of the Vendor**

The Vendor represents and warrants to the Purchaser as follows and acknowledges that the Purchaser is relying upon such representations and warranties in entering into this Agreement:

- (a) The Vendor has been appointed Receiver of the Company pursuant to the Appointment Order.
- (b) The Vendor has done no act to dispose of or encumber any of the Purchased Assets.

**3.2 Representations and Warranties of the Purchaser**

The Purchaser represents and warrants to the Vendor as follows and acknowledges that the Vendor is relying upon such representations and warranties in entering into this Agreement:

- (a) The Purchaser is a corporation duly incorporated, organized, and validly existing under the laws of its jurisdiction of incorporation. No proceedings have been taken or authorized by the Purchaser or, to the best of the Purchaser's knowledge, by any other Person, with respect to the bankruptcy, insolvency, liquidation, dissolution or winding up of the Purchaser.
- (b) The Purchaser has all necessary power and capacity to execute and deliver, and to observe and perform its covenants and obligations under, this Agreement and the Closing Documents to which it is a party. The Purchaser has taken all corporate action necessary to authorize the execution and delivery of, and the observance and performance of, its covenants and obligations under this Agreement and the Closing Documents to which it is or shall be a party.
- (c) This Agreement has been, and each Closing Document to which the Purchaser is a party will on Closing be, duly executed and delivered by the Purchaser, and this Agreement constitutes, and each Closing Document to which the Purchaser is a party will, on Closing, constitute, a valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms.
- (d) The Purchaser is in good standing with the College and with the Ontario Ministry of Health.
- (e) The Purchaser is not a non-Canadian within the meaning of the *Investment Canada Act* (Canada).

### **3.3 Interpretation**

Each representation and warranty made by a Party in this Agreement shall be treated as a separate representation and warranty in respect of each statement made and the interpretation of any statement made shall not be restricted by reference to, or inference from, any other statement made in a representation and warranty of such Party.

### **3.4 Commission**

Each Party represents and warrants to each other Party that no other Party will be liable for any brokerage commission, finder's fee or other similar payment in connection with the transactions contemplated hereby because of any action taken by, or agreement or understanding reached by, that Party.

### **3.5 Survival of Representations and Warranties**

All representations, warranties, statements, covenants and agreements made by the Purchaser in this Agreement or any Closing Document shall survive the Closing indefinitely.

**ARTICLE 4**  
**CONDITIONS PRECEDENT**

**4.1 Conditions of Closing**

Either the Purchaser or the Vendor shall be obliged to complete the Closing only if each of the conditions precedent set out below in Sections 4.1.1 through 4.1.10 inclusive, has been satisfied in full at or before the Closing Time.

**4.1.1 Accuracy of Representations and Performance of Covenants**

At the Closing Time, all of the representations and warranties of each of the Purchaser and the Vendor made in or pursuant to this Agreement shall be true and correct as if made at and as of the Closing Time (regardless of the date as of which the information in this Agreement or in any schedule or other document made pursuant hereto is given) except as such representations or warranties may be affected by the appeal of any court order referred to herein. At the Closing Time, each of the Purchaser and the Vendor shall have observed or performed in all respects all of the obligations, covenants and agreements which it must perform at or before the Closing Time. Each of the Purchaser and the Vendor shall have received immediately prior to the Closing Time a certificate from the other certifying, to the best of its knowledge, information and belief (after due enquiry) that the conditions in this Section 4.1.1 to be satisfied by it have been satisfied.

**4.1.2 Litigation**

No Order shall have been entered that prohibits or restricts the Closing. Neither of the Parties, nor any of their respective directors, officers, employees, or agents, shall be a defendant or third party to or threatened with any litigation or proceedings, before any court or Governmental Authority which, in the opinion of either the Purchaser or the Vendor, acting reasonably, could prevent or restrict that Party from performing any of its obligations in this Agreement or any Closing Document, including the appeal or any threatened appeal of the Vesting Order or the Approval Order.

**4.1.4 Receipt of Closing Documentation**

All documentation relating to the sale and purchase of the Purchased Assets and such other Closing Documents relating to the due authorization and completion of the sale and purchase and all actions and proceedings taken on or prior to the Closing in connection with the performance by the Purchaser and the Vendor of their obligations under this Agreement shall be satisfactory to each of the Purchaser, the Vendor and their respective counsel, as applicable. Each of the Purchaser and the Vendor shall have received copies of the Closing Documents and all such documentation or other evidence as it may reasonably request in order to establish the consummation of the transactions contemplated hereby and the taking of all corporate proceedings in connection therewith in form (as to certification and otherwise) and substance satisfactory to each



of the Purchaser, the Vendor and their respective counsel.

#### **4.1.5 Orders**

The Vendor shall have obtained the Vesting Order and the Approval Order. The Vendor shall not have received notice of appeal in respect to of the Approval Order and the Vesting Order and the Approval Order and the 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;

#### **4.1.6 No Removal of Purchased Assets**

The Fixed Assets or any material portion thereof, shall not have been removed from the control of the Vendor since the date of the Appointment Order, by any means or process and no party shall have taken any action to redeem any of the Fixed Assets.

#### **4.1.7 Cancellation of Insurance**

Except as expressly contemplated herein, all insurance maintained by the Vendor on behalf of the Company shall be cancelled by the Vendor on the Closing Date and the Purchaser shall be responsible for placing its own insurance with respect to the Business from and after the Closing Date.

#### **4.1.8 Assignment of the Lease**

If consent to assignment by the Vendor is required under the Lease, (i) the landlord under the Lease shall have consented to the assignment of the Lease by the Vendor to the Purchaser, or (ii) the Vendor shall have obtained an Order authorizing and compelling such assignment.

#### **4.1.9 Registration**

The Purchaser shall have obtained the appropriate registrations with the Ontario Drug Plan and the College within 30 days of the date of this Agreement.

#### **4.1.10 Financing**

The obligation of the Purchaser to complete the purchase of the Purchased Assets hereunder shall be subject to the fulfillment of the following condition until fourteen (14) business days following execution by both parties (which is hereby

acknowledged to be inserted for the exclusive benefit of the Purchaser and may be waived by it in whole or in part).

Upon the Purchaser arranging financing for this purchase on terms and conditions acceptable to the Purchaser in his sole discretion;

#### **4.2 Waiver**

Any Party may waive, by notice to the other Parties, any condition set forth in this Article 4 which is for its benefit. No waiver by a Party or any condition, in whole or in part, shall operate as a waiver of any other condition.

#### **4.3 Failure to Satisfy Conditions**

If any condition set forth in Article 4 is not satisfied at the Closing Time, the Party entitled to the benefit of such condition (the "**First Party**") may terminate this Agreement by notice in writing to the other Party and in such event the Parties shall be released from all obligations hereunder and all deposit monies shall be returned to the Purchaser forthwith without deduction.

### **ARTICLE 5**

#### **5.1 Access**

The Vendor agrees to allow the Purchaser and the Purchaser's authorized representatives accompanied by the Listing Broker, as defined herein, access to the Purchased Assets on two occasions prior to closing during normal business hours to inspect the Purchased Assets and make arrangements for closing. The Purchaser covenants and agrees to (i) repair or pay the cost of repair of any damage occasioned during and resulting from the inspection of the Purchased Assets conducted by the Purchaser or its authorized representatives, as outlined above and to return the Purchased Assets to the condition they were in prior to such inspections; and (ii) indemnify and save the Vendor harmless from and against all losses, costs, claims, third party claims, damages, expenses (including legal costs as between a solicitor and its own client) which the Vendor may suffer as a result of the inspection of the Purchased Assets conducted by the Purchaser or its authorized representatives, as outlined above or as a result of any unauthorized tests or inspections by a Government Authority. The provisions of this Section 5.1 shall survive Closing or other termination of this Agreement, notwithstanding any other provisions hereof.

## 5.2 Non-Disclosure of Transaction

The Purchaser agrees that it will not and will cause its officers, directors, employees, representatives and advisors not to, disclose or permit to be disclosed to any Person, any information relating to the Purchase Price or any of the other terms of this Agreement until after closing, other than to the equity holders of the Purchaser and Persons solicited by the Purchaser to provide financing in connection with the Transaction (and the Purchaser shall ensure, for the benefit of the Vendor, that such parties shall treat all such information in the strictest confidence and the Purchaser shall indemnify the Vendor in that regard).

## 5.3 Inventory

The Purchaser agrees that the value of the inventory to be paid over and above the purchase price shall be determined pursuant to an inventory count by a third party consultant as existing on the day prior to the Closing Date ("**Inventory Valuation**"), which shall be provided by the Vendor to the Purchaser on the day of Closing. It is expressly acknowledged and agreed that:

(a) both the Vendor and the Purchaser are entitled to observe the Inventory Valuation, but any costs incurred in so doing are for each Party's own account;

(b) the parties agree that the cost of the Inventory Valuation shall be borne by the parties equally;

(c) the Purchaser's share of the cost of the inventory count shall be added to the amount to be paid pursuant to the Inventory Valuation;

(d) the inventory count shall take place the night before the Closing Date;

(e) The value of the inventory shall be determined as follows: (i) all Non ODB generic name inventory to be discounted by 50% off cost price and brand name Inventory at 4% off cost price; (ii) store front inventory to be valued at 35% off the retail price; (iii) all over the counter inventory to be valued at 35% off retail price; (iv) Home Health Care inventory, if any, to be discounted at 50% off the retail price (v) any inventory stock with an expiry date of 90 days or less and any obsolete or damaged inventory shall be valued at nil; and (vi) all other inventory to be calculated at cost price; and

(f) the sales of Inventory on the Closing Date shall be for the account of the Purchaser provided the Closing has occurred.

## 5.4 Computers

The Purchaser shall allow the Vendor to maintain possession of such portion of the computer systems and related equipment, both hardware and software (the

“Computers”) as the Vendor may reasonably require for such period of time following Closing as may be reasonably required by the Vendor to complete its administration of the receivership of the Company at which time, the Vendor shall forthwith deliver up possession of the Computers to the Purchaser.

## **5.5 Risk of Loss**

Up to the time of the Closing, the Purchased Assets shall be and remain at the risk of the Vendor. If, prior to the time of the Closing, all or any material part of the Purchased Assets are substantially destroyed or damaged by fire or any other casualty or shall be expropriated, the Purchaser shall have the option, exercisable by notice in writing given within two (2) Business Days of the Purchaser receiving notice in writing from the Vendor of such destruction, damage or expropriation:

- (a) to complete the purchase without reduction of the Purchase Price and all proceeds of insurance or compensation for expropriation shall be payable to the Purchaser and all right and claim of the Vendor to any such amounts not paid by the time of the Closing shall be assigned by the Vendor to the Purchaser; or
- (b) of terminating this Agreement and not completing the purchase, in which case all obligations of the Purchaser and the Vendor hereunder, other than those pursuant to Section 5.1, shall terminate and the Deposit shall be returned to the Purchaser.

For greater certainty, where any damage is not substantial, the Purchaser shall be obliged to complete this Agreement, without deduction, and shall be entitled to the proceeds of insurance, if any, in connection with such damage.

## **5.6 Records**

The Purchaser agrees to maintain the Records for a period of at least seven (7) years following the Closing and shall provide access to the Vendor to such records, as the Vendor may reasonably require to complete its administration of the receivership of the Company.

## **ARTICLE 6 GENERAL**

### **6.1 Expenses**

Each Party shall pay all expenses it incurs in authorizing, preparing, executing and performing any aspect of the Transaction contemplated by this Agreement, whether or not the Closing occurs, including all fees and expenses of its legal counsel, bankers, investment bankers, brokers, accountants or other representatives or consultants.

**6.2 Time**

Time is of the essence of each provision of this Agreement.

**6.3 Notices**

Any notice, demand or other communication (in this Section, a "notice") required or permitted to be given or made hereunder shall be given in writing and addressed as follows:

(a) In the case of a notice to the Vendor, addressed to it at:

MSI SPERGEL INC., in its capacity as the Court appointed Receiver of all of the property and assets of River Hill Pharmacy Ltd.  
200-505 Consumers Road, Toronto, ON M2J 4V8  
Attention: Philip H. Gennis  
Tel.: 416-498-4325  
Fax: 416-498-4325  
Email: pgennis@spergel.ca

and with a further copy to its counsel at:  
Goldman, Spring, Nash and Haber (Brendan Bissell)  
480 University Avenue, Suite 1600  
Toronto, ON M5G1V2  
Attention: Brendan Bissell  
Tel: (416) 597-6489  
Fax: (416) 597-9922  
Email: bissell@gsnh.com

(b) In the case of the Purchaser:

Raouf Basiliou  
5 Heathmont Crt  
Richmond Hill  
Ontario  
L4E 1C2  
  
Attention: Raouf Basiliou \_\_\_\_\_  
Tel.:416-270-7793 \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: ~~spvgn jA hn bjdpn~~ \_\_\_\_\_

and with a further copy to its counsel at:

GGD Law Professional Corporation  
100-100 Cowdray Court

Toronto \_\_\_\_\_  
Ontario \_\_\_\_\_  
M1S 5C8 \_\_\_\_\_

Attention: Isaac Grubner \_\_\_\_\_  
Tel.: 416-292-0414 \_\_\_\_\_  
Fax: 416-292-4508 \_\_\_\_\_  
Email: [igrubner@gglawyers.ca](mailto:igrubner@gglawyers.ca) and [gnglawservices@gmail.com](mailto:gnglawservices@gmail.com) \_\_\_\_\_

Any such notice, if personally delivered, shall be deemed to have been validly and effectively given and received on the Business Day of such delivery and if sent by telecopier or other electronic communication with confirmation of transmission, shall be deemed to have been validly and effectively given and received on the Business Day next following the day it was received.

#### **6.4 Public Announcements / Confidentiality of Agreement**

Before the Closing Date, the Purchaser shall make no public statement or issue any press release concerning the transactions contemplated by this Agreement except as may be necessary to comply with the requirements of all Applicable Law. If any such public statement or release is so required, the Purchaser shall consult with the other Parties prior to making such statement or release, and the Parties shall use all reasonable efforts, acting in good faith, to agree upon a text for such statement or release which is satisfactory to all Parties. The Parties expressly acknowledge and agree that this Agreement shall not become public until after Closing.

#### **6.5 Assignment**

- (a) The Purchaser shall have the right to assign this Agreement to a company to be incorporated without the Vendor's consent, within 7 days of acceptance of this Agreement and upon such assignment the original purchaser shall be relieved of all liability hereunder. The Purchaser may not further assign any or all rights or benefits under this Agreement to any Person without the Vendor's written consent which consent shall be in the Vendor's sole discretion. If the Purchaser wishes to assign this agreement after the grant of the Vesting Order and the Vendor consents in its sole discretion, the Purchaser shall pay all of the costs incurred by the Vendor on a solicitor and its own client scale in connection with all proceedings to amend the Approval and Vesting Order or otherwise provide for vesting in the assignee.
- (b) Except as provided in Section 6.5(a), no assignment of benefits or arrangement for substituted performance by one Party shall be of any effect.
- (c) This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors (including any successor by reason of amalgamation or statutory arrangement of any Party) and permitted assigns.

**6.6 Further Assurances**

Each Party shall do such acts and shall execute such further documents, conveyances, deeds, assignments, transfers and the like, and will cause the doing of such acts and will cause the execution of such further documents as are within its power as any other Party may in writing at any time and from time to time reasonably request be done and or executed, in order to give full effect to the provisions of this Agreement and each Closing Document.

**6.7 Remedies Cumulative**

The rights and remedies of the Parties under this Agreement are cumulative and in addition to and not in substitution for any rights or remedies provided by law. Any single or partial exercise by any Party hereto of any right or remedy for default or breach of any term, covenant or condition of this Agreement does not waive, alter, affect or prejudice any other right or remedy to which such Party may be lawfully entitled for the same default or breach.

**6.8 Counterparts**

This Agreement may be executed in any number of counterparts. Each executed counterpart shall be deemed to be an original. All executed counterparts taken together shall constitute one agreement.

**IN WITNESS WHEREOF** this Agreement has been executed by the Purchaser as of the date first indicated..

Per:



Name: Raouf Basilio in trust for a company to be incorporated

Title:

**IN WITNESS WHEREOF** this Agreement has been executed by the Vendor as of the date first indicated.

**MSI SPERGEL INC.**, solely in its capacity as  
the Court appointed Receiver of  
River Hill Pharmacy Ltd., o/a River  
Hill Pharmacy  
and not in any other capacity and  
with no personal or corporate  
liability

Per:



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Name: Mukul Manchanda, CPA, CIRP, LIT

Title: Managing Partner

I/We have the authority to bind the  
corporation



**SCHEDULE A**

**Approval and Vesting Order**

Court File No. CV-20-00650853-00CL

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

THE HONOURABLE ) WEEKDAY, THE #  
 )  
JUSTICE ) DAY OF MONTH, 2021  
 )

B E T W E E N:

1951584 Ontario Inc. (formerly DESANTE FINANCIAL SERVICES INC.) and  
CWB MAXIUM FINANCIAL INC.

Applicants

- and -

4231 SHEPPARD AVENUE EAST INC., ABU SEIFEIN BRIMLEY PHARMA INC., BLESS  
HUI PHARMA INC., JG WINDSOR INC., JM WESTVIEW PHARMA INC., JUBILEE  
PROPERTY INVESTMENTS INC., MAPLE MEDI PHARMA INC., RIVER HILL  
PHARMACY LTD., SJ EAST PHARMA INC., ST. MARY COOKSVILLE PHARMA INC.,  
ST. MARY THEOTOKOS PHARMA INC., STONEY CREEK PHARMA INC., TORONTO  
APOTHECARY PHARMA INC., WESTWAY HOLDINGS INC. AND OLDE  
WALKERVILLE HOLDINGS INC.

Respondents

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by msi Spergel Inc. in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of the Respondents, including River Hill Pharmacy Ltd. (the “**Debtor**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Receiver and • (the “**Purchaser**”) dated • and appended to the • Report of the Receiver dated • (the “• **Report**”), and vesting in the Purchaser the Debtor’s right, title and interest in and to the assets described in the Sale Agreement (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, and counsel for • , no one appearing for any other person on the service list, although properly served as appears from the affidavit of service, filed:

1. THIS COURT ORDERS that the time for service of the motion record in respect of this motion and the • Report is hereby abridged and validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.

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

3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described as such in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by orders of this court in this proceeding; (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 B hereto, as the case may be (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 C) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

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

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

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

7. THIS COURT ORDERS that, notwithstanding:

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

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

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

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

9. THIS COURT 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.

10. THIS COURT ORDERS that this order is effective as of its date and does not need to be issued and entered.

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

Court File No. CV-20-00650853-00CL

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**COMMERCIAL LIST**

B E T W E E N:

1951584 Ontario Inc. (formerly DESANTE FINANCIAL SERVICES INC.) and  
CWB MAXIUM FINANCIAL INC.

Applicants

- and -

4231 SHEPPARD AVENUE EAST INC., ABU SEIFEIN BRIMLEY PHARMA INC., BLESS  
HUI PHARMA INC., JG WINDSOR INC., JM WESTVIEW PHARMA INC., JUBILEE  
PROPERTY INVESTMENTS INC., MAPLE MEDI PHARMA INC., RIVER HILL  
PHARMACY LTD., SJ EAST PHARMA INC., ST. MARY COOKSVILLE PHARMA INC.,  
ST. MARY THEOTOKOS PHARMA INC., STONEY CREEK PHARMA INC., TORONTO  
APOTHECARY PHARMA INC., WESTWAY HOLDINGS INC. AND OLDE  
WALKERVILLE HOLDINGS INC.

Respondents

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable • of the Ontario Superior Court of Justice (the “**Court**”) dated •, msi Spergel Inc. was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of the Respondents, including River Hill Pharmacy Ltd. (the “**Debtor**”).

B. Pursuant to an Order of the Court dated •, the Court approved the agreement of purchase and sale made as of • (the “**Sale Agreement**”) between the Receiver, the Debtor and • (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtor’s right, title and

interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section • of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

THE RECEIVER CERTIFIES the following:

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

**msi Spergel Inc., in its capacity as Receiver of the undertaking, property and assets of River Hill Pharmacy Ltd., and not in its personal capacity**

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

**Schedule B – Specific Claims to be deleted and expunged from the Purchased Assets (non-limitative)**

- Any McKesson Canada Corporation security registered under *Personal Property Security Act* (Ontario) (“PPSA”) registration number 20161214 1003 1462 0968 and 20161214 1003 1462 0969.
- Any Element Financial Corporation security registered under PPSA registration number 20150825 1533 1862 6190 and 20150825 1707 1462 5208.
- Any Kohl & Frisch Limited security registered under PPSA registration number 20140402 1633 1862 8795.
- Including any assignment, as the case may be.



[Motion Record Page No. 397]

**Schedule C – Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Purchased Assets**

**(unaffected by the Vesting Order)**

- Assumed Contracts (as defined in the Sale Agreement, as the case may be).

**SCHEDULE B**

**Addresses of Premises**

**1&2-2086 Lawrence Avenue West, Toronto, Ontario**

**SCHEDULE C**

**PURCHASE PRICE ALLOCATION**

River Hill Pharmacy Ltd.- Prescriptions and Goodwill	\$800,000.00
River Hill Pharmacy Ltd.- Fixtures and Equipment	\$150,000.00

# **APPENDIX 16**

**PHARMACY PURCHASE AGREEMENT**

**STONEY CREEK PHARMA INC., O/A MEDI FRIENDLY PHARMACY**

**THIS AGREEMENT** is made as of the 14<sup>th</sup> day of June, 2021.

**BETWEEN:**

**MSI SPERGEL INC.**, solely in its capacity as court-appointed Receiver of all of the property and assets of Stoney Creek Pharma Inc., o/a Medi Friendly Pharmacy (the "**Company**") and not in any other capacity and with no personal or corporate liability

(hereinafter called the "**Vendor**")

**OF THE FIRST PART**

- and -

SAMEH BOLOS in Trust for a company to be incorporated

(hereinafter called the "**Purchaser**")

**OF THE SECOND PART**

**RECITALS:**

Whereas:

- A. Pursuant to the Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) in Court File No. CV-20-00650853-00CL ( the "**Proceedings**"), dated November 25, 2020 as amended and re-stated by a further Order of the Court dated February 3, 2021 (the "**Appointment Order**"), the Vendor was appointed as Receiver of all the assets, property and undertaking (the "**Assets**") of the Company
- B. Pursuant to the Appointment Order, the Vendor is authorized to sell the Assets and apply for an order of the Court approving the sale of the Assets and vesting title to the Assets in the Purchaser.
- C. Subject to an order being issued by the Court approving the sale of the Purchased Assets (defined herein) and pursuant to the terms of this Agreement, the Purchaser has offered to purchase the Purchased Assets and the Vendor has accepted such an offer on the terms and conditions contained herein.

**NOW THEREFORE IN CONSIDERATION** of the premises and the mutual agreements in this Agreement, and for other consideration (the receipt and sufficiency of which are acknowledged by each Party), the Parties agree as follows.

**ARTICLE 1  
INTERPRETATION**

**1.1 Definitions**

In this Agreement:

**“Agreement”** means this asset purchase agreement resulting from the acceptance, by the Vendor, of the offer provided for in Section **Error! Reference source not found.** and all Schedules attached hereto and the terms “hereof” and “hereto” refer to this Agreement as a whole and references to “Section” and “subsection” mean the relevant section or subsection of this Agreement unless the context specifically indicates otherwise;

**“Applicable Law”** means any domestic or foreign statute, law (including the common law), ordinance, rule, regulation, restriction, regulatory policy or guideline, by-law (zoning or otherwise), or Order, or any consent, exemption, approval or License of any Governmental Authority, that applies in whole or in part to the Transaction, the Vendor, the Purchaser, the Company, the Business, the manner in which the Business is carried on or to any of the Purchased Assets;

**“Appointment Order”** means the order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice dated November 25, 2020, appointing the Vendor as Receiver of all of the assets, property and undertaking of the Company, including the Purchased Assets, pursuant to section 243 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.C43, as amended (the **“CJA”**)

**“Approval Order”** means an order or orders of the Court in a form substantially in accordance with Schedule A authorizing and approving the Transaction contemplated under this Agreement (and which Order may, at the option of the Vendor, be combined, in one Order, with the Vesting Order);

**“Assets”** has the meaning given in recital A;

**“BIA”** means the *Bankruptcy and Insolvency Act* of Canada as the same may be amended from time to time;

**“Business”** means the retail pharmacy business of the Company;

**“Business Day”** means a day other than a Saturday or Sunday, on which Canadian chartered banks are open for the transaction of domestic business in Toronto, Ontario;

**“Claims”** shall have the meaning ascribed thereto in the Vesting Order;

**“Closing”** means the completion of the sale to, and purchase by the Purchaser of, the Purchased Assets in accordance with the terms of this Agreement;

**“Closing Date”** means ten (10) Business Days after the Court grants the Approval Order and the Vesting Order or such other date as the parties hereto agree to in writing;

**“Closing Document”** means any document delivered at or subsequent to the Closing Time as provided in or pursuant to this Agreement;

**“College”** means the Ontario College of Pharmacists;

**“Company”** has the meaning given in the listing of the Parties of the First Part;

**“Contracts”** means the full benefit and advantage of all contracts, agreements and entitlements of the Company relating to the Business [other than the interest of any of the Company in any of the Accounts Receivable, the Inventory, the Fixed Assets, the Equipment Leases, the Goodwill, the Records, Intellectual Property, and/or the leasehold interest of the Company in the Premises];

**“Closing Time”** means 10:00 am Toronto time on the Closing Date or such other time on the Closing Date as the Parties agree in writing that the Closing shall take place;

**“Court”** means the Ontario Superior Court of Justice (Commercial List);

**“Deposit”** has the meaning set out in Section 2.3;

**“Encumbrances”** shall have the meaning ascribed to thereto in the Vesting Order;

**“Excluded Assets”** means (i) any Assets not specifically included as part of the Purchased Assets, and (ii) for greater certainty, includes the Real Property, bank accounts of the Company, cash on hand or cash equivalents at Closing;

**“Fixed Assets”** means all of the fixed assets, machinery, equipment, computers, furniture, furnishings and vehicles owned by the Company together with all operating manuals, maintenance logs, and equipment drawings and specifications in the possession of the Vendor;

**“Goodwill”** means the goodwill of the Company included in the Purchased Assets, including the right to carry on its Business as successor thereto and the use of all telephone numbers and facsimile numbers used in its Business, patient lists and related prescription lists, trade name and customer and supplier lists;

**“Governmental Authority”** means any domestic or foreign government whether federal, provincial, state or municipal and any governmental agency, governmental authority, governmental tribunal or governmental commission of any kind whatever;

**“including”** means **“including without limitation”** and the term **“including”** shall not be construed to limit any general statement which it follows to the specific or similar items or matters immediately following it;

**“Intellectual Property”** means all of the patents, trade names, trademarks and other intellectual property and the Goodwill appurtenant thereto to the extent same comprises property of the Company included in the Purchased Assets as of the Closing Date, any and all other patents, trade names, trademarks and other intellectual property and the goodwill appurtenant thereto together with all documents, drawings, and technical data in the possession of the Vendor;

**“Inventory”** means – subject to the reconciliation provisions hereof (including Section 5.3) - all inventories of every kind and nature and wheresoever situated of our relating to the Business including, but not limited to , pharmaceuticals, over-the-counter medications, front-of-counter sundries, tobacco products but does not, if applicable, include lottery tickets or related products.

**“Inventory Valuation”** has the meaning set out in Section 5.3;

**“Lease”** means the lease between the Vendor and the landlord of the Premises, which is occupied by the Company pursuant to the lease disclosed to the Purchaser in the data room for the sale process;

**“License”** means any license, permit, approval, right, privilege, concession or franchise in respect of the Business;

**“Listing Broker”** means Maged Bebawy or another representative of REMAX West Realty Inc.

**“Order”** means any order (draft or otherwise), judgment, injunction, decree, award or writ of any court, tribunal, arbitrator, Governmental Authority, or other Person;

**“Parties”** means the Purchaser and the Vendor collectively, and **“Party”** means any one of them;

**“Permitted Encumbrances”** shall mean those encumbrances listed in the Approval and Vesting Order attached as Schedule “A”

**“Person”** or **“person”** shall be broadly interpreted and includes an individual, body corporate, partnership, joint venture, trust, association, unincorporated organization, the Crown, any Governmental Authority or any other entity recognized by law;

**“Premises”** means the premises as listed in Schedule B;

**“Purchase Price”** means the purchase price payable for the Purchased Assets pursuant to Section 2.2 ;

**“Purchased Assets”** means, subject to the terms hereof (including the terms with respect to reconciliation of Inventory), all of the interest of the Company in the retail pharmacy business, including but not limited to Fixed Assets, Intellectual Property, the Lease, and Inventory, but not including any Excluded Assets;



**“Related Person”** has the meaning in the *Bankruptcy and Insolvency Act*, 1985, c. B-3, as amended;

**“Records”** means all of the records relating exclusively to the Business consisting of operating data, files, books and records, correspondence, materials and contract documents;

**“Transaction”** means the transaction of purchase and sale contemplated pursuant to this Agreement;

**“Vesting Order”** means an order or orders of the Court in a form substantially in accordance with Schedule A ordering that the right, title and interest of the Company in the Purchased Assets be vested in the Purchaser free and clear of any right, title or interest of Claims and Encumbrances, except for Permitted Encumbrances.

## **1.2 Statutes**

Unless specified otherwise, reference in this Agreement to a statute refers to that statute as it may be amended or to any restated or successor legislation of comparable effect.

## **1.3 Headings**

The division of this Agreement into articles, Sections, subsections and schedules and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

## **1.4 Number and Gender**

In this Agreement, words in the singular include the plural and vice-versa and words in one gender include all genders.

## **1.5 Entire Agreement**

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of or between the Parties.

## **1.6 Amendment**

This Agreement may only be amended, modified or supplemented by a written agreement signed by each Party.

## **1.7 Waiver of Rights**

Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

## **1.8 Schedules**

The following Schedules form part of this Agreement:

- Schedule A - Form of Approval and Vesting Order
- Schedule B - Addresses of Premises
- Schedule C - Purchase Price Allocation

## **1.9 Applicable Law**

This Agreement shall be governed by, and interpreted and enforced in accordance with, the laws in force in Ontario (excluding any conflict of laws, rule or principle which might refer such interpretation to the laws of another jurisdiction). Each Party irrevocably submits to the exclusive jurisdiction of the Court with respect to any matter arising hereunder or related hereto.

## **1.10 Currency**

Unless specified otherwise, all statements of or references to dollar amounts in this Agreement are to Canadian dollars.

## **1.11 Third Party Beneficiaries**

Nothing in this Agreement or in any Closing Document is intended expressly or by implication to, or shall, confer upon any Person other than the Parties, any rights or remedies of any kind.

## **ARTICLE 2 PURCHASE AND SALE**

### **2.1 Purchase and Sale of Purchased Assets**

- (a) The Vendor shall sell, assign and transfer to the Purchaser and the Purchaser shall purchase the Purchased Assets on the Closing Date pursuant to the Vesting Order and the Purchaser shall pay the Purchase Price on the Closing Date, subject to the terms and conditions contained in this Agreement.

(b) The Purchaser hereby acknowledges to and in favour of the Vendor that the Purchaser has conducted its own investigations and inspections of the Purchased Assets and that the Purchaser is responsible to conduct its own inspections and investigations of all matters and things connected with or in any way related to the Purchased Assets, that the Purchaser has satisfied itself with respect to the Purchased Assets and all matters and things connected with or in any way related to the Purchased Assets, that the Purchaser has relied entirely upon its own investigation and inspections in entering into this Agreement, that the Purchaser is purchasing the Purchased Assets on an “as is, where is” basis as at the Closing Date, that the Purchaser will accept the Purchased Assets in their state, condition and location on Closing and that the Purchaser hereby acknowledges that the Vendor has made no representations, warranties, statements or promises, including as to the compliance with any Applicable Laws affecting the Transaction, save and except as are expressly contained in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties and representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) do not apply to the sale of the Purchased Assets and have been waived by the Purchaser. Except as expressly set out in this Agreement, no adjustment shall be allowed to the Purchaser for any changes in condition, quality or quantity of the Purchased Assets to and including the Closing Date. Except as specifically contemplated and provided for in this Agreement, the Purchaser acknowledges that the Vendor is not required to inspect or count, or provide any inspection or counting, of the Purchased Assets or any parts thereof and the Purchaser shall be deemed, at its own expense, to have relied entirely upon its own inspection and investigation of the Purchased Assets. Nothing contained herein shall require the Vendor, following Closing, to take possession of, protect, preserve, or otherwise safeguard any Purchased Assets.

(c) The Purchaser acknowledges and agrees that any and all information relating to the Purchased Assets (including any environmental report(s), if any, or any information memorandum given by the Vendor, the Company, or any other person to the Purchaser) was delivered to the Purchaser solely for the Purchaser’s convenience and there is no representation or warranty of any kind whatsoever made by the Vendor nor the Company or any other person with respect to the accuracy or completeness of any such information.

The descriptions of any of the Purchased Assets contained on the Schedules appended hereto are for the purposes of identification only and the Vendor is not liable for any error or omission in such Schedules.

(d) The Purchaser acknowledges that it shall be the Purchaser’s sole responsibility to obtain, at its own expense, and the Purchaser shall use its best efforts to obtain, any consents, approvals or any further documentation or assurances which may be required to be obtained by Purchaser (but not the Company or Vendor) to carry out the terms of this Agreement. Notwithstanding the foregoing, the

Vendor agrees to do such acts and shall execute such further documents, conveyances, deeds, assignments, transfers and the like, and will cause the doing of such acts and will cause the execution of such further documents as are within its power and as the Purchaser may reasonably request be done and or executed, in order to carry out the terms of this Agreement, but in so doing, shall not be required to incur any expense or liability (except as the Vendor in its absolute discretion sees fit).

- (e) The Purchaser shall assume, at its own cost, complete responsibility for compliance with all Applicable Laws in connection with the Purchased Assets, or the use thereof by the Purchaser, after the Closing Date.
- (f) The Purchaser shall be responsible for making all necessary arrangements for continued occupation of the Premises as assignee pursuant to the Lease.

## 2.2 Purchase Price & Purchased Assets

The Purchase Price for the Purchased Assets (save and except inventory as defined herein) as apportioned by the Purchaser on Appendix C (not including all applicable taxes, for which the Purchaser shall also be liable in accordance with Section 2.5) shall be [REDACTED]

## 2.3 Payment of Purchase Price

The Purchaser shall pay the Purchase Price to the Vendor as follows:

- (a) the sum of [REDACTED] shall be paid by wire transfer, delivery of certified funds or bank draft payable to the Vendor "in Trust", with the submission of this Agreement by the Purchaser to the Vendor and held by the Vendor as a deposit (the "Deposit") which shall be dealt with in accordance with Section 2.4; and
- (b) the balance of the Purchase Price together with the amount of the agreed inventory valuation shall be delivered to the Vendor at Closing payable in cash, by delivery of a certified cheque or bank draft or by wire transfer.

## 2.4 Deposit

- (a) The Deposit shall be paid and held in escrow by the Vendor, until the Closing Time, at which time the Deposit shall be applied on account of the Purchase Price or as otherwise provided for in this Agreement.
- (b) If this Agreement:
  - (i) is terminated or the Closing otherwise fails to occur for any reason other than a breach by the Purchaser of its obligations under this Agreement,

then the Purchaser shall be entitled to the return of the Deposit without interest within five (5) Business Days and the Purchaser shall have no recourse against the Receiver and this Agreement shall become null and void;

- (ii) is terminated or the Closing otherwise fails to occur as a result of the breach of the Purchaser of its obligations under this Agreement, then the Vendor shall be entitled to retain the Deposit as liquidated damages, and shall be entitled to pursue all of its other rights and remedies against the Purchaser.

## **2.5 Taxes**

The Purchaser shall be liable for and shall pay, in addition to the Purchase Price, all federal and provincial sales taxes and any other taxes or duties payable in connection with the conveyance and transfer of the right, title and interest, if any, of the Vendor in and to the Purchased Assets (collectively, the “**Taxes**”) to the Purchaser and the Purchaser undertakes and agrees to pay all such Taxes on Closing – provided that the Vendor and the Purchaser agree that the appropriate elections with respect to the payment of Taxes may be made. By executing this Agreement, the Purchaser indemnifies and holds the Vendor harmless from and against any and all costs, expenses, liabilities and damages incurred or suffered by the Vendor as a result of the failure of the Purchaser to pay any of the Taxes exigible in connection with the Transaction which indemnity shall survive closing.

## **2.6 Time and Place of Closing**

The Closing shall take place on the Closing Date at the offices of the solicitors for the Vendor or as may otherwise be agreed between the Parties in writing.

## **2.7 The Closing**

### **2.7.1 Vendor’s Deliveries**

At Closing, the Vendor shall:

- (a) Upon the delivery of all of the Purchaser’s Deliveries as set out in Article 2.7.2, execute and deliver to the Purchaser the Receiver’s Certificate in the form appended as Schedule “A” to the Vesting Order;
- (b) deliver to the Purchaser the Approval Order and the Vesting Order;
- (c) deliver to the Purchaser a certificate dated as of the Closing Date, confirming that all of the representations and warranties of the Vendor contained in this

Agreement are true as of the Closing Date, with the same effect as though made on and as of the Closing Date;

- (d) execute and deliver to the Purchaser a bill of sale in respect of the Purchased Assets on the terms contained herein, if requested; and
- (e) execute and deliver or cause to be executed and delivered such other documents, instruments or certificates as contemplated by this Agreement.

### **2.7.2 Purchaser's Deliveries**

At Closing, the Purchaser shall:

- (a) deliver payment of the balance of the Purchase Price in accordance with Article 2;
- (b) execute and deliver or cause to be executed and delivered such other documents, instruments or certificates as the Vendor may reasonably request.
- (c) deliver to the Vendor an acknowledgement dated as of the Closing Date, that each of the conditions precedent in this Agreement in favour of the Purchaser have been fulfilled, performed or waived by the Purchaser as of the Closing Date;
- (d) execute and deliver or cause to be executed and delivered such other documents, instruments or certificates as contemplated by this Agreement.

## **ARTICLE 3 REPRESENTATIONS AND WARRANTIES**

### **3.1 Representations and Warranties of the Vendor**

The Vendor represents and warrants to the Purchaser as follows and acknowledges that the Purchaser is relying upon such representations and warranties in entering into this Agreement:

- (a) The Vendor has been appointed Receiver of the Company pursuant to the Appointment Order.
- (b) The Vendor has done no act to dispose of or encumber any of the Purchased Assets.

### 3.2 Representations and Warranties of the Purchaser

The Purchaser represents and warrants to the Vendor as follows and acknowledges that the Vendor is relying upon such representations and warranties in entering into this Agreement:

- (a) The Purchaser is a corporation duly incorporated, organized, and validly existing under the laws of its jurisdiction of incorporation. No proceedings have been taken or authorized by the Purchaser or, to the best of the Purchaser's knowledge, by any other Person, with respect to the bankruptcy, insolvency, liquidation, dissolution or winding up of the Purchaser.
- (b) The Purchaser has all necessary power and capacity to execute and deliver, and to observe and perform its covenants and obligations under, this Agreement and the Closing Documents to which it is a party. The Purchaser has taken all corporate action necessary to authorize the execution and delivery of, and the observance and performance of, its covenants and obligations under this Agreement and the Closing Documents to which it is or shall be a party.
- (c) This Agreement has been, and each Closing Document to which the Purchaser is a party will on Closing be, duly executed and delivered by the Purchaser, and this Agreement constitutes, and each Closing Document to which the Purchaser is a party will, on Closing, constitute, a valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms.
- (d) The Purchaser is in good standing with the College and with the Ontario Ministry of Health;
- (e) The Purchaser is not a non-Canadian within the meaning of the *Investment Canada Act* (Canada).

### 3.3 Interpretation

Each representation and warranty made by a Party in this Agreement shall be treated as a separate representation and warranty in respect of each statement made and the interpretation of any statement made shall not be restricted by reference to, or inference from, any other statement made in a representation and warranty of such Party.

### 3.4 Commission

Each Party represents and warrants to each other Party that no other Party will be liable for any brokerage commission, finder's fee or other similar payment in connection with the transactions contemplated hereby because of any action taken by, or agreement or understanding reached by, that Party.

### **3.5 Survival of Representations and Warranties**

All representations, warranties, statements, covenants and agreements made by the Purchaser in this Agreement or any Closing Document shall survive the Closing indefinitely.

## **ARTICLE 4 CONDITIONS PRECEDENT**

### **4.1 Conditions of Closing**

Either the Purchaser or the Vendor shall be obliged to complete the Closing only if each of the conditions precedent set out below in Sections 4.1.1 through 4.1.10 inclusive, has been satisfied in full at or before the Closing Time.

#### **4.1.1 Accuracy of Representations and Performance of Covenants**

At the Closing Time, all of the representations and warranties of each of the Purchaser and the Vendor made in or pursuant to this Agreement shall be true and correct as if made at and as of the Closing Time (regardless of the date as of which the information in this Agreement or in any schedule or other document made pursuant hereto is given) except as such representations or warranties may be affected by the appeal of any court order referred to herein. At the Closing Time, each of the Purchaser and the Vendor shall have observed or performed in all respects all of the obligations, covenants and agreements which it must perform at or before the Closing Time. Each of the Purchaser and the Vendor shall have received immediately prior to the Closing Time a certificate from the other certifying, to the best of its knowledge, information and belief (after due enquiry) that the conditions in this Section 4.1.1 to be satisfied by it have been satisfied.

#### **4.1.2 Litigation**

No Order shall have been entered that prohibits or restricts the Closing. Neither of the Parties, nor any of their respective directors, officers, employees, or agents, shall be a defendant or third party to or threatened with any litigation or proceedings, before any court or Governmental Authority which, in the opinion of either the Purchaser or the Vendor, acting reasonably, could prevent or restrict that Party from performing any of its obligations in this Agreement or any Closing Document, including the appeal or any threatened appeal of the Vesting Order or the Approval Order.

#### **4.1.4 Receipt of Closing Documentation**

All documentation relating to the sale and purchase of the Purchased Assets and such other Closing Documents relating to the due authorization and completion of the sale and purchase and all actions and proceedings taken on or prior to the Closing in connection with the performance by the Purchaser and the Vendor of their obligations under this Agreement shall be satisfactory to each of the Purchaser, the Vendor and



their respective counsel, as applicable. Each of the Purchaser and the Vendor shall have received copies of the Closing Documents and all such documentation or other evidence as it may reasonably request in order to establish the consummation of the transactions contemplated hereby and the taking of all corporate proceedings in connection therewith in form (as to certification and otherwise) and substance satisfactory to each of the Purchaser, the Vendor and their respective counsel.

#### **4.1.5 Orders**

The Vendor shall have obtained the Vesting Order and the Approval Order. The Vendor shall not have received notice of appeal in respect to of the Approval Order and the Vesting Order and the Approval Order and the 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;

#### **4.1.6 No Removal of Purchased Assets**

The Fixed Assets or any material portion thereof, shall not have been removed from the control of the Vendor since the date of the Appointment Order, by any means or process and no party shall have taken any action to redeem any of the Fixed Assets.

#### **4.1.7 Cancellation of Insurance**

Except as expressly contemplated herein, all insurance maintained by the Vendor on behalf of the Company shall be cancelled by the Vendor on the Closing Date and the Purchaser shall be responsible for placing its own insurance with respect to the Business from and after the Closing Date.

#### **4.1.8 Assignment of the Lease**

If consent to assignment by the Vendor is required under the Lease, (i) the landlord under the Lease shall have consented to the assignment of the Lease by the