

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

**BETWEEN:**

**ROYNAT INC.**

**Applicant**

**- and -**

**TAMTAN INC. and 1308963 ONTARIO LIMITED (o/a EZ FOOD GROUP)**

**Respondents**

**MOTION RECORD**  
(returnable March 13, 2020)  
(re approval of sale transaction and other relief)

March 4, 2020

**CHAITONS LLP**  
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**Lawyers for the Court-appointed  
Receiver, msi Spergel Inc.**

**TO: SERVICE LIST**

## SERVICE LIST

(as of March 4, 2020)

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<b>1978240 ONTARIO INC.</b> (o/a OpalOnline and formerly 1562712 Ontario Inc.) c/o Gary Rapkoski 301 High Street Whitby, ON L1N 5H7	<b>TREASURER, CITY OF TORONTO</b> George Charocopos Collections Department North York Civic Centre, Lower Level 5100 Yonge Street North York, ON M2N 5V7  Fax: (416) 395-6703 E-mail: gcharoc@toronto.ca
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# INDEX

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

**BETWEEN:**

**ROYNAT INC.**

**Applicant**

- and -

**TAMTAN INC. and 1308963 ONTARIO LIMITED (o/a EZ FOOD GROUP)**

**Respondents**

**INDEX**

<b>Tab</b>	<b>Document</b>
1.	Notice of Motion returnable March 13, 2020
2.	Second Report of msi Spergel Inc., dated March 3, 2020
Appendix A	Appointment or Order of Justice McEwen, dated October 16, 2019
Appendix B	First Report dated December 10, 2019
Appendix C	Order of The Honourable Madam Justice Conway dated December 17, 2019
Appendix D	Listing Agreement with Colliers International
Appendix E	Sales and Marketing Report of Colliers International
Appendix F	Redacted Sales Agreement for Real Property with Forest Ridge Inc.
Appendix G	Receiver's Interim Statement of Receipts and Disbursements
Appendix H	Receiver's Certificate with respect to the 1308 Borrowings
Appendix I	Receiver's Certificate with respect to the TamTan Borrowings
3.	Draft Approval and Vesting Order
4.	Blackline to Model Approval and Vesting Order
5.	Draft Order

# **TAB 1**

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

**BETWEEN:**

**ROYNAT INC.**

**Applicant**

**- and -**

**TAMTAN INC. and 1308963 ONTARIO LIMITED (o/a EZ FOOD GROUP)**

**Respondents**

**NOTICE OF MOTION**  
(returnable March 13, 2020)  
(re approval of sale transaction and other relief)

**msi SPERGEL INC.** (“**Spergel**”), in its capacity as Court-appointed receiver (the “**Receiver**”) of TamTan Inc. (“**TamTan**”) and 1308963 Ontario Limited (o/a EZ Food Group) will make motion to a Judge of the Commercial List on Friday March 13, 2020 at 10:00 am, or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**THE MOTION IS FOR:**

- (a) if necessary, an order abridging the time for service of this notice of motion and the motion record and validating the method of service so that the motion is properly returnable on March 20, 2019;



(b) an order:

- (i) approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale entered into by the Receiver and Forest Ridge Inc. (the "**Purchaser**") dated February 27, 2020 (the "**Sale Agreement**");
- (i) vesting in the Purchaser or its assignee TamTan's right, title and interest in and to the "Purchased Assets" (as defined in the Sale Agreement), free and clear of all claims and encumbrances other than permitted encumbrances, upon delivery of a certificate by the Receiver to the Purchaser;

(c) an order:

- (i) approving the Second Report of the Receiver dated March 3, 2020 (the "**Second Report**") and the activities and conduct of the Receiver as described therein;
- (ii) approving the Receiver's interim statements of receipts and disbursements attached as Appendix "G" to the Second Report;
- (iii) sealing the Confidential Appendices to the Second Report pending the closing of the Transaction or further order of the Court; and

(d) such further and other relief as this Honourable Court may deem just.

**THE GROUNDS FOR THE MOTION ARE:**

1. The Second Report and the appendices thereto.

2. Rules 1.04, 1.05, 2.01, 2.03, and 37 of the *Rules of Civil Procedure* (Ontario).
3. The equitable and inherent jurisdiction of the Court.
4. Such other grounds as counsel may advise and this Honourable Court may permit.

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

1. The Second Report and the appendices attached thereto; and
2. Such further and other evidence as counsel may advise and this Honourable Court may permit.

March 4, 2019

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Receiver, msi Spergel Inc**

**ROYNAT INC.**

- and -

Applicant

**TAMTAN INC. and 1308963 ONTARIO LIMITED (o/a**

**EZ FOOD GROUP)**

Respondents

Court File No. CV-19-00628569-00CL

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

Proceedings commenced at TORONTO

**NOTICE OF MOTION**  
(returnable March 13, 2020)  
(re approval of sale transaction and  
other relief)

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## **TAB 2**

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

**BETWEEN:**

**ROYNAT INC.**

**Applicant**

**- and -**

**TAMTAN INC. and 1308963 ONTARIO LIMITED (o/a EZ FOOD GROUP)**

**Respondents**

**SECOND REPORT OF MSI SPERGEL INC.  
IN ITS CAPACITY AS THE COURT-APPOINTED RECEIVER OF  
TAMTAN INC. and 1308963 ONTARIO LIMITED**

**March 3, 2020**

## **TABLE OF CONTENTS**

APPOINTEMENT AND BACKGROUND	Page 1
PURPOSE OF THIS SECOND REPORT	Page 3
ACTIONS OF THE RECEIVER SINCE THE FIRST REPORT	Page 4
THE SALES PROCESS WITH RESPECT TO REAL PROPERTY	Page 6
RECEIVER'S STATEMENT OF RECEIPTS AND DISBURSEMENTS	Page 8
PROPOSED DISTRIBUTION	Page 8
REQUEST FOR A PROTECTIVE SEALING ORDER	Page 10
RECOMMENDATIONS	Page 10

## **APPENDICES**

- A. Order of the Honourable Justice McEwen dated October 16, 2019
- B. First Report dated December 10, 2019
- C. Order of The Honourable Madam Justice Conway dated December 17, 2019
- D. Listing Agreement with Colliers International
- E. Sales and Marketing Report of Colliers International
- F. Redacted Sales Agreement for Real Property with Forest Ridge Inc.
- G. Receiver's Interim Statement of Receipts and Disbursements.
- H. Receiver's Certificate with respect to the 1308 Borrowings
- I. Receiver's Certificate with respect to the TamTan Borrowings

## **CONFIDENTIAL APPENDICES**

- A. Appraisal Report of York Simcoe Appraisal Corporation dated November 8, 2019
- B. Appraisal Report of Colliers International dated November 13, 2019
- C. Receiver's Analysis of the Offers Received for the Real Property
- D. Copy of the Un-redacted Sale Agreement



## **APPOINTMENT AND BACKGROUND**

1. This second report (this “**Second Report**”) is filed by msi Spergel Inc. (“**Spergel**”) in its capacity as the Court-appointed receiver (the “**Receiver**”) of TamTan Inc. (“**TamTan**”) and 1308963 Ontario Limited (“**1308**”, and together with TamTan, the “**Companies**”).

2. TamTan is an Ontario corporation that was incorporated on November 9, 2006. TamTan is the registered owner of the Real Property. Nader Gramian-Nik is the sole officer and director of TamTan.

3. 1308 is an Ontario corporation that was incorporated on August 10, 1998. The Receiver understands that 1308 operated a food processing facility from leased premises located at 1405 Morningside Avenue, Toronto Ontario (the “**Real Property**”). Nadereh Akhavan-Foumani is the sole officer and director of 1308.

4. On February 8, 2019, the Court of Quebec (Criminal and Penal Division) issued restraint orders and management orders under section 490.8 and 490.81 of the *Criminal Code* with respect to the Real Property, and certain bank accounts in the names of TamTan and 1308 respectively (collectively, the “**Bank Accounts**”). A restraint order and management order was registered on title to the Real Property on February 14, 2019 (the “**Restraint Order**”).

5. The restraint orders and management orders were granted in connection with criminal proceedings brought against Nader Gramian-Nik and the possibility that the Real Property and the Bank Accounts represent proceeds of crime.

6. Spergel was appointed as the Receiver of all the assets, undertakings and properties of the Companies, other than the Bank Accounts (collectively, the **"Property"**) by Order of The Honourable Mr. Justice McEwen of the Ontario Superior Court of Justice (Commercial List) (the **"Court"**) issued on October 16, 2019 (the **"Receivership Order"**). The Receivership Order was granted upon the application of the Companies' secured creditor, Roynat Inc. (**"Roynat"**). Attached hereto as **Appendix "A"** is a copy of the Receivership Order.

7. The Receiver retained Chaitons LLP (the **"Receiver's Counsel"**) as its independent legal counsel.

8. On December 17, 2019, the Receiver brought a motion for an order approving, amongst other things, the auction services agreement dated December 6, 2019 (the **"Auction Agreement"**) between the Receiver and Platinum Asset Services Inc. (the **"Auctioneer"**) with respect to certain personal property of 1308 (collectively, the **"1308 Property"**) and authorizing the Auctioneer to conduct a public auction (and, if applicable, re-auction) as referenced in, and in accordance with the terms of the Auction Agreement (the **"Auction"**). In connection with that motion, the Receiver served its First Report to the Court dated December 10, 2019 (the **"First Report"**). Attached hereto as **Appendix "B"** is a copy of the First Report (without appendices).

9. By order of The Honourable Madam Justice Conway dated December 17, 2019 (the **"December 17<sup>th</sup> Order"**), the Court approved the relief sought by the Receiver, pursuant to which the Auctioneer was authorized to sell the 1308 Property and transfer 1308's right, title and interest in and to the 1308 Property purchased by a respective

purchaser at the Auction free and clear of claims and encumbrances. Attached hereto as **Appendix "C"** is a copy of the December 17<sup>th</sup> Order.

#### **PURPOSE OF THIS SECOND REPORT**

10. The purpose of this Second Report is to advise the Court as to the steps taken by the Receiver since the date of the First Report and to seek Orders from this Court:

- (a) approving this Second Report and the actions of the Receiver described herein, including without limitation, approval of the Receiver's interim statement of receipts and disbursements as at February 29, 2020;
- (b) approving the sale transaction contemplated by the agreement of purchase and sale dated February 27, 2020 between the Receiver, as vendor, and Forest Ridge Inc. (the "**Purchaser**" or "**Forest Ridge**" ), as purchaser (the "**Sale Agreement**"), with respect to the Purchased Assets (as defined in the Sale Agreement), and authorizing the Receiver to complete the transaction contemplated therein (the "**Transaction**");
- (c) vesting in the Purchaser TamTan's right, title and interest in and to the Purchased Assets free and clear of any claims and encumbrances, save and except for "Permitted Encumbrances";
- (d) authorizing and directing the Receiver to make a distribution with respect to the 1308 Borrowings (as defined herein) and the TamTan Borrowings (as defined herein); and

- (e) sealing the Confidential Appendices (as defined herein) to this Second Report until the earlier of the completion of the Transaction or further order of this Court.

11. 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 Second Report for any other purposes.

12. In preparing this Second Report, the Receiver has relied upon certain information provided to it by the Companies' former management. Unless otherwise stated herein, 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.

13. All references to dollars in this Second Report are in Canadian currency unless otherwise noted.

#### **ACTIONS OF THE RECEIVER SINCE THE FIRST REPORT**

##### *TamTan*

14. Based on the information provided to the Receiver, TamTan was a real property holding company and the Real Property represents the only property owned by TamTan, other than whatever funds were in the TamTan Bank Accounts. The Receiver is not aware of TamTan having any employees prior to its appointment.

15. As reported in the First Report, the Receiver engaged the services of Colliers International Realty Advisors Inc. ("**Colliers**") and York Simcoe Appraisal Corp. ("**York Simcoe**") to attend at and conduct an appraisal of the Real Property. The Receiver obtained appraisals in relation to the Real Property from York Simcoe and Colliers on November 8, 2019 and November 13, 2019, respectively. Copies of the York Simcoe and Colliers appraisals as they relate to the Real Property will be provided to the Court as **Confidential Appendices "A" and "B"** to the Second Report.

16. During the course of its mandate, the Receiver was advised that a Phase II Environmental Site Assessment ("**Phase II ESA**") was conducted by Fisher Environmental Ltd. ("**Fisher**") for Forest Ridge as part of Forest Ridge's due diligence with respect to the potential purchase of the Real Property prior to the appointment of the Receiver. In order to save time in conducting a new environmental assessment, the Receiver thought it prudent to reach out to Fisher and Forest Ridge to discuss whether Fisher and Forest Ridge will be willing to sell the existing Phase II ESA to the Receiver. Ultimately, the Receiver was able to purchase Phase II ESA along with a reliance letter from Fisher.

1308

17. As noted above, 1308 carried on business as a food processor from the Real Property. The Receiver has no information regarding what employees 1308 had prior to its appointment.

18. Following the issuance of the December 17<sup>th</sup> Order, the Receiver signed the Auction Agreement and assisted the Auctioneer in setting up the premises for the Auction of the 1308 Property to the extent required by the Auction Agreement.

19. As noted in the First Report, after taking possession of the books and records of 1308, the Receiver extracted an accounts receivable listing from the accounting server and took steps to realize on 1308's outstanding accounts receivable. However, given the lack of supporting documents, the Receiver has been unable to collect any receivables. The Receiver intends to assign the receivables to a collection agency.

20. Based on the information provided to the Receiver, 1308 has no property other than the accounts receivable referred to herein, the 1308 Property that is subject to the Auction Agreement, and the 1308 Bank Accounts.

#### **THE SALES PROCESS WITH RESPECT TO THE REAL PROPERTY**

21. The Receiver sought and received Sales and Marketing Proposals (the "**Proposals**") from four national Real Estate Brokerages. After carefully reviewing the Proposals, the Receiver entered into an MLS Listing Agreement dated December 11, 2019 (the "**Listing Agreement**") with Colliers. The Real Property was listed for sale on the MLS web site for Southwestern Ontario and the GTA. Attached hereto as **Appendix "D"** is a copy of the Listing Agreement.

22. Colliers prepared sales and marketing materials that were accessible online to prospective purchasers. Colliers also targeted prospective purchasers that may have an interest in the Real Property and emailed sales and marketing materials to a

comprehensive list of buyers. In addition, Colliers distributed marketing materials to commercial real estate agents. In an effort to ensure that the Real Property was widely exposed to the marketplace, the Listing Agreement contemplated a period to accept offers from potential purchasers which offers were to be considered on January 31, 2020. Attached hereto as **Appendix "E"** is a copy of the sales and marketing report of Colliers outlining in detail the efforts undertaken to obtain offers.

23. Colliers marketing efforts resulted in six (6) parties submitting Agreements of Purchase and Sale with respect to the Real Property. A summary of the offers received during the duration of the sales process of the Real Property will be provided to the Court as **Confidential Appendix "C"** to the Second Report.

24. Upon receipt of the offers, the Receiver, in consultation with Colliers and the stakeholders, determined that the offer from Forest Ridge represented the highest realizable value in respect of the Real Property. Accordingly, the Receiver accepted the offer submitted by Forest Ridge, subject firstly to the approval of this Honourable Court and secondly to Forest Ridge successfully completing a purchase of the 1308 Property from the Auctioneer. Attached hereto as **Appendix "F"** is a redacted copy of the Sale Agreement. An un-redacted copy of the Sale Agreement will be provided to the Court as **Confidential Appendix "D"** to the Second Report (collectively with Confidential Appendices "A", "B", and "C", the "**Confidential Appendices**").

25. The Receiver understands that Forest Ridge has successfully entered into an agreement of purchase and sale with the Auctioneer with respect to the 1308 Property,

and that transaction is scheduled to close on the same date scheduled for the closing of the Transaction.

26. The Receiver has discussed the Sale Agreement with Roynat and representatives of the Seized Property Management Directorate, and both parties support the Receiver entering into the Sale Agreement with Forest Ridge.

27. It is the opinion of the Receiver that the terms and conditions contained within the Sale Agreement are commercially reasonable, that the purchase price in the Sale Agreement represents market value for the Real Property, the Real Property has been sufficiently exposed to the market by Colliers, and that all reasonable steps have been taken to obtain the best price for the Real Property.

28. Accordingly, the Receiver recommends that the Transaction be approved by this Court.

#### **RECEIVER'S STATEMENT OF RECEIPTS AND DISBURSEMENTS**

29. Attached as **Appendix "G"** to this Second Report is a copy of the Receiver's Interim Statement of Receipts and Disbursements as at February 29, 2020.

#### **PROPOSED DISTRIBUTION**

##### *Real Property Taxes*

30. In connection with the closing of the Transaction, the Receiver will pay any outstanding realty taxes with respect to the Real Property that are owed to the City of Toronto.



### *Receiver's Certificates*

31. Pursuant to paragraph 22 of the Receivership Order, the Receiver borrowed \$30,000 from Roynat to fund its activities in these proceedings with respect to 1308 (the "**1308 Borrowings**"), and \$150,000 to fund its activities in these proceedings with respect to TamTan (the "**TamTan Borrowings**"). Attached hereto as **Appendices "H" and "I"** are copies of the Receiver's Certificates representing the 1308 Borrowings and the TamTan Borrowings.

32. Pursuant to paragraph 22 of the Receiver Order, the issuance of Receiver's Certificate has the effect of creating a charge on the Property, by way of a fixed and specific charge as security for the repayment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person (as defined in the Receivership Order), but subordinate to the Receiver's Charge, and the charges set out in subsections 14.06(7), 81.4(4), and 81.6(2) of the *Bankruptcy and Insolvency Act*.

33. The Receiver recommends that, following the closing of the transaction with respect to the 1308 Property, it be authorized and directed to distribute \$30,000 plus applicable interest to Roynat in respect of the repayment of the 1308 Borrowings.

34. The Receiver also recommends that, following the closing of the Transaction, it be authorized and directed to distribute \$150,000 plus applicable interest to Roynat in respect of the repayment of the TamTan Borrowings.

## **REQUEST FOR A PROTECTIVE SEALING ORDER**

35. The Receiver is seeking a sealing order in respect of the Confidential Appendices as they each contain commercially sensitive information, the release of which prior to the completion of the Transaction would be prejudicial to the stakeholders of the Companies in the event that the Transaction does not close.

## **RECOMMENDATIONS**

36. The Receiver respectfully requests that this Honourable Court grant the relief sought in this Second Report.

Dated at Toronto this 3<sup>rd</sup> day of March, 2020.

**msi Spergel inc.,**  
solely in its capacity as court-appointed  
Receiver of TamTan Inc. and 1308963  
Ontario Limited and not in its personal  
or corporate capacity

Per:



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Mukul Manchanda, CPA, CIRP, LIT  
Principal

# **APPENDIX “A”**

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**COMMERCIAL LIST**

THE HONOURABLE MR.

)

WEDNESDAY, THE 16<sup>TH</sup> DAY

)

JUSTICE MCEWEN

)

OF OCTOBER, 2019



**ROYNAT INC.**

Applicant

- and -

**TAMTAN INC. and 1308963 ONTARIO LIMITED (o/a EZ FOOD GROUP)**

Respondents

**ORDER  
(Appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing msi Spergel Inc. as receiver and manager (in such capacities, the “**Receiver**”) without security, of all of the assets, undertakings and properties of TamTan Inc. and 1308963 Ontario Limited (o/a EZ Food Group) (together, the “**Debtors**”) acquired for, or used in relation to a business carried on by the Debtors, excluding the bank accounts listed in Schedule A hereof (the “**Property**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Silvio Marsili sworn October 3, 2019 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant, the Public Prosecution Service

of Canada and counsel for those parties listed on the counsel slip for today's hearing, attached, no one appearing although duly served as appears from the affidavits of service of Norman Ng, sworn October 7, 2019, Melissa Feriozzo, sworn October 7, 2019 and Nancy Thompson, sworn October 7, 2019, and on reading the consent of msi Spergel Inc. to act as the Receiver,

### **SERVICE**

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

### **APPOINTMENT**

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, msi Spergel Inc. hereby appointed Receiver, without security, of all of the Property.

### **RECEIVER'S POWERS**

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

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

business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;

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

- (i) without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$150,000; and
- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required.

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of either Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of either Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by such Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and

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

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

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

4. THIS COURT ORDERS that (i) the Debtors, (ii) all of 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 (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver’s request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service



provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

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

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

8. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal, save and except for any proceeding commenced or continued under the *Criminal Code* or comparable criminal or penal statute by the Attorney General of Canada (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

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

9. THIS COURT ORDERS that no Proceeding against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with

leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending the written consent of the Receiver that such Proceedings may continue or further Order of this Court.

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

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

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

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

#### **CONTINUATION OF SERVICES**

12. THIS COURT ORDERS that all Persons having oral or written agreements with either Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to such Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of such 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 such 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.

#### **NO DISTRIBUTIONS WITHOUT FURTHER ORDER**

14. THIS COURT ORDERS that the Receiver shall not may any distribution of any Property, or any proceeds thereof, without further Order of the Court.

#### **EMPLOYEES**

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

#### **PIPEDA**

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

#### **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 \$200,000 (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 “B” 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”.

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

## **GENERAL**

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

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

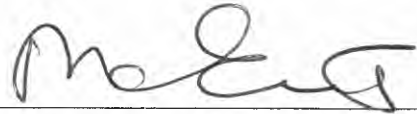
30. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals,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

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

32. THIS COURT ORDERS that the Plaintiff shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis to be paid by the

Receiver from each Debtor's estate with such priority and at such time as this Court may determine.

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

A handwritten signature in black ink, appearing to be "M. E. G.", written over a horizontal line.

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

OCT 16 2019

PER / PAR:

A handwritten signature in black ink, appearing to be "G.", written next to the "PER / PAR:" label.



**SCHEDULE "A"**  
**ACCOUNTS NOT SUBJECT TO PROPOSED RECEIVERSHIP**

**ROYAL BANK OF CANADA**

1. Account Folio 04062 #1020551 of EZ FOOD GROUP (1308963 Ontario Ltd.)
2. Account 04062 #1020692 of TAMTAN Inc.
3. Account 04062 #1020544 of TRANS CANADA FOOD SERVICE (1842227 Ontario Inc.)

**BANK OF MONTREAL**

4. Account 0002 #1808906 of TRANS CANADA FOOD SERVICE (1842227 Ontario Inc.)

**BANK OF NOVA SCOTIA**

5. Account 71332 #066419 of TAMTAN Inc.
6. Account 71332 #127612 of EZ FOOD GROUP (1308963 Ontario Inc.)
7. Account Folio 71332 #0040215 of EZ CASH & CARRY (1847405 Ontario Inc.)
8. Account Folio 71332 #0061816 of TRANS CANADA FOOD SERVICE (1842227 Ontario Inc.)

## SCHEDULE "B"

### RECEIVER CERTIFICATE

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

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

1. THIS IS TO CERTIFY that msi Spergel Inc., the receiver (the "**Receiver**") of the assets, undertakings and properties TamTan Inc. and 1308963 Ontario Limited (o/a EZ Food Group) acquired for, or used in relation to a business 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 10th day of October, 2019 (the "**Order**") made in an action having Court file number \_\_-CL-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$\_\_\_\_\_, being part of the total principal sum of \$200,000 which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

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

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

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

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

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

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

Name:

Title:

**ROYNAT INC. - and - TAMTAN INC. and 1308963 ONTARIO LIMITED (o/a EZ FOOD Group)**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**  
Proceeding Commenced at Toronto

**ORDER  
(Appointing Receiver)**

**BLAKE, CASSELS & GRAYDON LLP**  
Barristers and Solicitors  
199 Bay Street  
Suite 4000, Commerce Court West  
Toronto, Ontario M5L 1A9  
  
**Chris Burr** (LSO#:551721H)  
Tel: 416-863-3261  
Fax: 416-863-2653  
Email: [chris.burr@blakes.com](mailto:chris.burr@blakes.com)  
  
Lawyers for the Applicant

# **APPENDIX “B”**

Court File No. CV-19-00628569-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**ROYNAT INC.**

Applicant

- and -

**TAMTAN INC. and 1308963 ONTARIO LIMITED (o/a EZ FOOD GROUP)**

Respondents

**FIRST REPORT OF MSI SPERGEL INC.  
IN ITS CAPACITY AS THE COURT-APPOINTED RECEIVER OF  
TAMTAN INC. and 1308963 ONTARIO LIMITED**

**December 10, 2019**

## **TABLE OF CONTENTS**

1.0	APPOINTMENT AND BACKGROUND	Page 1
2.0	PURPOSE OF THIS REPORT AND DISCLAIMER	Page 1
3.0	ACTIONS OF THE RECEIVER UPON APPOINTMENT	Page 2
4.0	AUCTION AGREEMENT	Page 4
5.0	RECOMMENDATIONS	Page 5

## **APPENDICES**

1. Appointment Order of the Honourable Justice McEwen dated October 16, 2019
2. Letters from the Receiver's Counsel to the Tenants
3. Redacted Auction Agreement



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**ROYNAT INC.**

Applicant

- and -

**TAMTAN INC. and 1308963 ONTARIO LIMITED (o/a EZ FOOD GROUP)**

Respondents

**1.0 APPOINTMENT AND BACKGROUND**

- 1.0.1 This report (this "**Report**") is filed by msi Spergel inc. ("**Spergel**") in its capacity as the Court-appointed receiver (in such capacity, the "**Receiver**") of the property, assets and undertaking of TamTan Inc. ("**TamTan**") and 1308963 Ontario Limited ("**1308**", and together with TamTan, the "**Companies**").
- 1.0.2 1308 is an Ontario corporation that was incorporated on August 10, 1998. The Receiver understands that 1308 operated as a food processing facility from leased premises located at 1405 Morningside Avenue, Toronto Ontario (the "**Real Property**").

1.0.3 TamTan is an Ontario corporation that was incorporated on November 9, 2006. TamTan is the registered owner of the Real Property.

1.0.4 Spergel was appointed as the Receiver, without security, of all the assets, undertakings and properties of the Companies (collectively, the "**Property**") by Order of the Honourable Mr. Justice McEwen of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") issued on October 16, 2019 (the "**Appointment Order**"). The Appointment Order was made upon the application of the Companies' general secured creditor, Roynat Inc. ("**Roynat**"). Attached hereto as **Appendix "1"** to this Report is a copy of the Appointment Order

## **2.0 PURPOSE OF THIS REPORT AND DISCLAIMER**

2.0.1 The purpose of this Report is to advise the Court as to the steps taken by the Receiver in these proceedings to date and to seek Orders from this Court:

- (a) approving this Report and the actions of the Receiver described herein;
- (b) approving the auction services agreement dated December 6, 2019 between the Receiver and Platinum Asset Services Inc. (the "**Auctioneer**") with respect to certain Property of 1308 between (the "**Auction Agreement**"), and authorizing the Auctioneer to conduct a public auction (and, if applicable, re-auction) as referenced in, and in accordance with the terms of the Auction Agreement (the "**Auction**");
- (c) vesting in each purchaser at such Auction 1308's right, title and interest in and to the Property purchased by such respective purchaser at the Auction, free and clear of claims and encumbrances; and

(d) authorizing the Receiver to terminate the lease arrangements, if any, with the Tenants (as defined herein) and ordering the Tenants to vacate the Real Property forthwith.

2.0.2 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 Report for any other purpose.

2.0.3 In preparing this Report, the Receiver has relied upon certain information provided to it by the Companies' former management. 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.

2.0.4 All references to dollars in this Report are in Canadian currency unless otherwise noted.

### **3.0 ACTIONS OF THE RECEIVER UPON APPOINTMENT**

3.0.1 A copy of the Appointment Order was provided to the Companies by Roynat's counsel and by the Receiver. In addition, the Receiver prepared its statutory Notice and Statement of the Receiver in accordance with sections 245(1) and 246(1) of the *Bankruptcy and Insolvency Act* (Canada) and mailed a copy to all creditors of the Companies known to the Receiver.

#### **TamTan Inc.**

3.0.2 Further to its appointment and commencing on October 16, 2019, the Receiver attended at the Real Property for the purpose of taking possession and securing same. Additionally, the Receiver undertook the following activities:

- (a) took possession of the available books and records
- (b) arranged for insurance coverage and security in respect of the Real Property
- (c) notified the commercial tenants at the Real Property of the Receiver's appointment;
- (d) engaged Chaitons LLP (the "**Receiver's Counsel**") as the Receiver's independent counsel; and
- (e) retained Lockit Security to assist the Receiver with management and safeguarding of the Real Property.

3.0.3 The Receiver engaged the services of Colliers International Realty Advisors Inc. and York Simcoe Appraisal Corp. to attend at and conduct an appraisal of the Real Property. The Receiver has received the appraisals with respect to the Real Property and will provide copies of same to this Honourable Court in its future attendance.

3.0.4 In addition, the Receiver requested and received listing proposals in relation to listing the Real Property for sale from Colliers International, Avison Young, CBRE and Cushman & Wakefield. After comparing the proposals submitted by the brokerages and in consultation with the stakeholders, the Receiver has engaged Colliers International to market and sell the Real Property.

3.0.5 Since the date Receiver took possession of the Real Property, the Receiver's activities have been focused primarily on the day-to-day management and safeguarding of the Real Property, including without limitation, dealing with Transbiz Truck Training Centre ("**Transbiz**") and Reliable Consultants Inc.

(“**Reliable**”, collectively the “**Tenants**”), the management and payment of monthly utilities and conducting regular inspections of the Real Property.

3.0.6 On October 25, 2019, the Receiver’s Counsel sent a letter to each of Transbiz and Reliable asking the Tenants to provide documentations outlining the lease terms with TamTan. Having received no response to the letters from the Tenants, on November 15, 2019 the Receiver’s Counsel sent another letter to the Tenants advising, amongst other things, that no payment of rent has been made to the Receiver since its appointment and unless the Receiver receives written documentation from the Tenants supporting an existence of a lease of the Real Property and payment of rent by 4:00pm on November 22, 2019, the Receiver will have no other alternative but to immediately evict the Tenants from the Real Property. As at the date of this Report, the Receiver’s Counsel has not received any lease documentation or payment of rent from the Tenants. Attached as **Appendix “2”** to this Report are copies of the letters sent to the Tenants by the Receiver’s Counsel.

3.0.7 Accordingly, the Receiver is requesting that an order be made terminating any lease agreements that were entered into between TamTan and the Tenants and requiring the Tenants to vacate the Real Property forthwith.

1308963 Ontario Limited

3.0.8 After taking possession of the books and records of 1308, the Receiver extracted an accounts receivable listing from the accounting server and took steps to realize on 1308’s outstanding accounts receivable. In this regard, the Receiver issued demand letters on October 23, 2019 to all customers listed in 1308’s books and records totaling \$108,582.50. On November 19, 2019, the Receiver issued second demand letters with respect to the outstanding receivables. As at the date of this

Report, the Receiver has not collected anything on account of outstanding receivables however, the Receiver's collection efforts are ongoing.

#### **4.0 AUCTION AGREEMENT**

- 4.0.1 Pursuant to the terms of the Appointment Order, Receiver is empowered to and authorized to, amongst other things, market any or all of 1308's assets, including advertising and soliciting offers and proposals in respect of the assets and negotiating such terms and conditions of sale as the Receiver, in its discretion, deemed appropriate.
- 4.0.2 The Receiver sought and obtained an appraisal for the fixed assets (comprising mainly of food processing equipment) of 1308. The appraisal was conducted by Platinum Asset Services Inc.
- 4.0.3 As at the date of this Report, the terms of the Auction Agreement have yet to be finalized and executed by the parties. The Receiver anticipates an agreement comparable to the Auction Agreement, a redacted copy of which is attached at **Appendix "3"** hereto, will be entered between the Auctioneer and the Receiver. The Auction Agreement remains subject to the approval of this Court.
- 4.0.4 It is the Receiver's position that the net minimum guarantee is in line with the appraised value of the assets and the rates and commissions provided in the Auction Agreement are fair and reasonable. Further, the Receiver believes that a public auction is a commercially reasonable method for disposing of the fixed assets of 1308, given, amongst other things, the disadvantageous economies of scale that would result if the Receiver were to conduct its own sale process and the urgency to vacate the Real Property and have it ready for sale in accordance with the marketing timeline proposed by the listing agent.

4.0.5 The Auction is scheduled to take place in January 2020. The net proceeds of sale from the Auction would be held by the Receiver pending further order of this Court.

**5.0 RECOMMENDATIONS**

5.0.1 The Receiver respectfully requests that this Honourable Court grant the relief sought in this Report.

Dated at Toronto this 10<sup>th</sup> day of December, 2019

**msi Spergel inc.,**  
solely in its capacity as court-appointed  
Receiver of TamTan Inc. and 1308963  
Ontario Limited (o/a EZ Food Group) and  
not in its personal or corporate capacity

Per:



---

Philip H. Gennis, J.D., CIRP, LIT  
Senior Principal

# **APPENDIX “C”**



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

THE HONOURABLE *Madam*  
JUSTICE *Conway*

)  
)  
)

TUESDAY, THE 17<sup>th</sup>  
DAY OF DECEMBER, 2019

**BETWEEN:**



**ROYNAT INC.**

**- and -**

**Applicant**

**TAMTAN INC. and 1308963 ONTARIO LIMITED (o/a EZ FOOD GROUP)**

**Respondents**

**ORDER**

**THIS MOTION**, made by msi Spergel Inc. in its capacity as Court-appointed receiver (the “**Receiver**”) of the property, assets and undertakings of the Respondents, was heard this day at the Court House, 330 University Avenue, Toronto, Ontario.

**ON READING** the Notice of Motion and the First Report of the Receiver dated December 10, 2019 (the “**First Report**”) and the appendices thereto, and on hearing the submissions of counsel for the Receiver and such other counsel listed on the Counsel Slip, no one else from the service list appearing although properly served as evidenced by the affidavit of service of Lynda Christodoulou sworn December 11, 2019, filed,

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.

2. **THIS COURT ORDERS** that the First Report, and conduct and activities of the Receiver described therein, be and are hereby approved.

3. **THIS COURT ORDERS** that the Receiver is hereby authorized to enter into an auction services agreement substantially in the form attached as Appendix 3 to the First Report (the “**Auction Services Agreement**”) with Platinum Asset Services Inc. (the “**Auctioneer**”) for the auction of the property of the Respondent, 1308963 Ontario Limited (o/a EZ Food Group) (“**1308**”) listed on Schedule “A” to the Auction Services Agreement (the “**1308 Property**”) (the “**Auction**”). The Auction Services Agreement is hereby approved, with such amendments as the Receiver and the Auctioneer may deem necessary. The Auction of the 1308 Property to be conducted by the Auctioneer pursuant to the terms of the Auction Services Agreement is hereby approved. 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 Auction and for the conveyance of any or all of the 1308 Property to a person or persons (a “**Purchaser**”) in accordance with the Auction Services Agreement.

4. **THIS COURT ORDERS** that the Auctioneer is hereby authorized to market and sell the 1308 Property in accordance with the Auction Services Agreement.

5. **THIS COURT ORDERS** that the Auctioneer is hereby permitted to sell all or any of the 1308 Property at the Auction and in accordance with the Auction Services Agreement, and that upon the Auctioneer completing the sale of any or all of the 1308 Property to a Purchaser at the

Auction and delivering a bill of sale or similar conveyance document to such person (a “**Bill of Sale**”), all of 1308’s right, title and interest in and to the 1308 Property specified in such Bill of Sale shall vest absolutely in such 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, construction liens, condominium liens, certificates of action, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of The Honourable Justice McEwen dated October 16, 2019; and (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.

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the 1308 Property, including, without limitation, any net minimum guarantee amount payable to the Receiver under the terms of the Auction Services Agreement (the “**Proceeds**”), shall stand in the place and stead of the 1308 Property, and that from and after the delivery of the Bill of Sale in respect of the specified 1308 Property, all Claims shall attach to the Proceeds with the same priority as they had with respect to each of the 1308 Property immediately prior to the sale, as if the 1308 Property had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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 1308 and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of 1308;

the sale and vesting of title to all or any of the 1308 Property in a Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of 1308 and shall not be void or voidable by creditors of 1308, 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 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.

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

DEC 17 2019

PER / PAR:



**ROYNAT INC.**

Applicant

- and -

**TAMTAN INC. and 1308963 ONTARIO LIMITED (o/a**

**EZ FOOD GROUP)**

Respondents

Court File No. CV-19-00628569-00CL

*ONTARIO*

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

Proceedings commenced at TORONTO

**ORDER**

**CHAITONS LLP**

5000 Yonge Street, 10<sup>th</sup> Floor  
Toronto, ON M2N 7E9

**Sam Rappos** (LSO #51399S)

Tel: (416) 218-1137

Fax: (416) 218-1837

Email: samr@chaitons.com

**Lawyers for the Court-appointed  
Receiver, msi Spergel Inc.**

# **APPENDIX “D”**





# 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



BETWEEN:

BROKERAGE: COLLIERS MACAULAY NICOLLS INC.

245 Yorkland Blvd, Suite 200 TORONTO (the "Listing Brokerage") Tel. No. (416) 777-2200

SELLER: Msi Spergel Inc., in its capacity as court-appointed receiver of TamTan Inc., And not in any corporate or personal capacity (the "Seller")

In consideration of the Listing Brokerage listing the real property for sale known as 1405 Morningside Ave

Toronto, Ontario

M1B3J1

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 11<sup>th</sup> day of December, 2019

until 11:59 p.m. on the 10<sup>th</sup> day of June, 2020 (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:

Eight Million One Hundred Thousand and Ninety-Five Dollars Dollars (\$CDN) 8,195,000

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

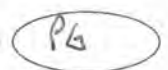
of 3% of the sale price of the Property or 2.5% if no co-operating agent

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 1.5 % of the sale price of the Property or N/A 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 180 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:

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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 or the accompanying data form. 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.  
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. 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.
- 9. 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.
- 10. 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.
- 11. 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:

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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)

PG  
(Does Not)

- 12. SUCCESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms of this Agreement.
- 13. 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.
- 14. 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.
- 15. 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.
- 16. 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:  
Gary Hewitt

12/11/2019 | 4:04 PM EGary Hewitt

(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., in its capacity as court-appointed receiver of

TamTan Inc. and not in any corporate or personal capacity.

(Name of Seller)

(Signature of Seller/Authorized Signing Officer)

(Seal)

December 11, 2019

(Date)

(Tel. No.)

416-498-4325

(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 Anthony Miller

(Name of Salesperson/Broker/Broker of Record)

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

(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 11th day of December, 2019

(Signature of Seller)

(Date)

(Signature of Seller)

(Date)



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# COMMERCIAL – SALE MLS® DATA INFORMATION FORM



☒ **Mandatory Field**  
All Property Types ☐ **Optional Field**  
All Property Types

MLS® LISTING # \_\_\_\_\_

FOR BOARD USE ONLY FOR A NEW LISTING OR TO BE COMPLETED FOR A RE-RUN.

## PROPERTY INFORMATION

### ASSESSMENT ROLL NUMBER (ARN)

1901127100003000000

PIN #

AREA

06054-0805

Toronto

### MUNICIPALITY

Toronto, Ontario

### COMMUNITY \*

E11

\* MANDATORY IF AVAILABLE

### STREET NUMBER

### STREET NAME

### ABBREVIATION

### DIR

### APT/UNIT #

### POSTAL CODE

1405

Morningside

Ave

M1B3J1

### LEGAL DESCRIPTION (LOT, PLAN, CONCESSION)

Parcel of Block 0-1, Section M1919, being Parts of Blocks 9 and 10, Plan M-1995 and Part of Block O, being a reserve on Plan M-1919, designated as Parts 19 to 21, 23 to 28, 49 to 53, 55 to 58, 62, 67 and 68, all inclusive, Plan 66R-15458

### PROPERTY MANAGEMENT COMPANY

### LOT FRONT ▲\*

### LOT DEPTH ▲\*

### LOT/BLDG/UNIT CODE ▲

### LOT SIZE CODE ▲

### LOT IRREGULARITIES

249.29

434.75

☒ Lot ☐ Bldg ☐ Unit

☒ Feet ☐ Acres  
☐ Metres

\* NOT MANDATORY FOR COMMERCIAL CONDO

### DIRECTION/MAIN CROSS STREETS

### MAP #

### MAP COL (NUMERIC)

### MAP ROW (ALPHA)

Morningside Avenue and Highway 401

▲ IF NOT APPLICABLE ENTER "0"

## PRICE/DATES

### LIST PRICE

### LIST PRICE CODE NOTE: REFER TO PRICE CODES

### MIN. RENTAL TERM (MONTHS)

### MAX. RENTAL TERM (MONTHS)

8,195,000

For Sale

### SELLER NAME

Msi Spergel Inc., in its capacity as court-appointed receiver of TamTan Inc., And not in any corporate or personal capacity

### CONTRACT COMMENCEMENT

### EXPIRY DATE

### POSSESSION DATE

12 / 11 / 2019  
M M D D Y Y Y Y

06 / 10 / 2020  
M M D D Y Y Y Y

Immediate

### TAXES

### TYPE TAXES (check 1)

### TAX YEAR

### ASSESSMENT

### ASSESSMENT YEAR

### CONDO MAINTENANCE FEES (MONTHLY) \*

91,995

☒ Annual ☐ T. & O.  
☐ N/A ☐ T.M.I.

2019

\* MANDATORY FOR COMMERCIAL & INDUSTRIAL CONDOS ONLY

**FORM 590**



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SELLERS INITIALS

P6



**DETAILS****ZONING**

Industrial M / E 0.7

TYPE - PRIMARY (check 1)	CATEGORY (check 1)	USE (check 1)
<input type="checkbox"/> Commercial Retail Property <b>(Do not use for Sale of Business)</b>	<input type="checkbox"/> Highway Commercial <input type="checkbox"/> Multi-Use <input type="checkbox"/> Retail <input type="checkbox"/> Service <input type="checkbox"/> Commercial Condo <input type="checkbox"/> Institutional*	<input type="checkbox"/> Automotive Related <input type="checkbox"/> Health & Beauty Related <input type="checkbox"/> Hospitality/Food Related <input type="checkbox"/> Other <input type="checkbox"/> Retail Store Related <input type="checkbox"/> Service Related <input type="checkbox"/> Bank* <input type="checkbox"/> Church* <input type="checkbox"/> School* <input type="checkbox"/> Other* <b>*uses for Institutional category only</b>
<input type="checkbox"/> Sale of Business	<input type="checkbox"/> With Property <input type="checkbox"/> Without Property	<input type="checkbox"/> Apparel <input type="checkbox"/> Art Gallery <input type="checkbox"/> Art Supplies <input type="checkbox"/> Automotive Related <input type="checkbox"/> Bakery <input type="checkbox"/> Banquet Hall <input type="checkbox"/> Bar/Tavern/Pub <input type="checkbox"/> Beauty Salon <input type="checkbox"/> Bed & Breakfast <input type="checkbox"/> Butcher/Meat <input type="checkbox"/> Cabins/Cottages <input type="checkbox"/> Café <input type="checkbox"/> Car Wash <input type="checkbox"/> Caterer/Cafeteria <input type="checkbox"/> Coffee/Donut Shop <input type="checkbox"/> Coin Laundromat <input type="checkbox"/> Convenience/Variety <input type="checkbox"/> Copy/Printing <input type="checkbox"/> Crafts/Hobby <input type="checkbox"/> Dairy Products <input type="checkbox"/> Day Care <input type="checkbox"/> Delicatessen <input type="checkbox"/> Delivery/Courier <input type="checkbox"/> Distributing <input type="checkbox"/> Drugstore/Pharmacy <input type="checkbox"/> Dry Cleaning/Laundry <input type="checkbox"/> Electronics <input type="checkbox"/> Entertainment <input type="checkbox"/> Fast Food/Takeout <input type="checkbox"/> Fitness/Training <input type="checkbox"/> Florist <input type="checkbox"/> Food Court Outlet <input type="checkbox"/> Footwear <input type="checkbox"/> Fruit/Vegetable/Market <input type="checkbox"/> Funeral Home <input type="checkbox"/> Furniture <input type="checkbox"/> Garden/Landscaping <input type="checkbox"/> Gas Station <input type="checkbox"/> Golf Course <input type="checkbox"/> Golf Driving Range <input type="checkbox"/> Gravel Pit/Quarry <input type="checkbox"/> Grocery/Supermarket <input type="checkbox"/> Hair Salon <input type="checkbox"/> Hardware/Tools <input type="checkbox"/> Home Improvement <input type="checkbox"/> Hotel/Motel/Inn <input type="checkbox"/> Manufacturing <input type="checkbox"/> Marina <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Other <input type="checkbox"/> Pizzeria <input type="checkbox"/> Real Estate Office <input type="checkbox"/> Restaurant <input type="checkbox"/> Self Storage <input type="checkbox"/> Service Related <input type="checkbox"/> Spa/Tanning <input type="checkbox"/> Sporting Goods <input type="checkbox"/> Sports/Entertainment <input type="checkbox"/> Travel Agency <input type="checkbox"/> Wood Working
<input type="checkbox"/> Store With Apartment/Office	<input type="checkbox"/> Store With Apartment/Office	
<input type="checkbox"/> Investment	<input type="checkbox"/> Accommodation <sup>1</sup> <input type="checkbox"/> Apartment <sup>2</sup> <input type="checkbox"/> Retail <input type="checkbox"/> Industrial <input type="checkbox"/> Recreational <sup>3</sup> <input type="checkbox"/> Office	<input type="checkbox"/> Bed & Breakfast <sup>1</sup> <input type="checkbox"/> Apts-2 To 5 Units <sup>2</sup> <input type="checkbox"/> Cabins/Cottages <sup>1</sup> <input type="checkbox"/> Apts-6 To 12 Units <sup>2</sup> <input type="checkbox"/> Hotel/Motel/Inn <sup>1</sup> <input type="checkbox"/> Apts-13 To 20 Units <sup>2</sup> <input type="checkbox"/> Other <sup>1</sup> <input type="checkbox"/> Apts-Over 20 Units <sup>2</sup> <input type="checkbox"/> Seniors Residence <sup>2</sup> <input type="checkbox"/> Other <sup>2</sup> <input type="checkbox"/> Golf <sup>3</sup> <input type="checkbox"/> Marina <sup>3</sup> <input type="checkbox"/> Campground <sup>3</sup> <input type="checkbox"/> Sports/Entertainment <sup>3</sup> <input type="checkbox"/> Other <sup>3</sup> <b>1 - uses for Accommodation only    2 - uses for Apartment only    3 - uses for Recreational only    All others have no uses.</b>
<input type="checkbox"/> Office	<input type="checkbox"/> Office	<input type="checkbox"/> Medical/Dental <input type="checkbox"/> Professional Office <input type="checkbox"/> Other
<input checked="" type="checkbox"/> Industrial	<input checked="" type="checkbox"/> Free Standing <input type="checkbox"/> Multi-Unit <input type="checkbox"/> Industrial Condo	<input checked="" type="checkbox"/> Cooler/Freezer/ Food Inspected <input type="checkbox"/> Factory/Manufacturing <input type="checkbox"/> Laboratory <input type="checkbox"/> Other <input type="checkbox"/> Transportation <input type="checkbox"/> Warehouse
<input type="checkbox"/> Farm	<input type="checkbox"/> Agricultural	<input type="checkbox"/> Cash Crop <input type="checkbox"/> Dairy Products <input type="checkbox"/> Hobby <input type="checkbox"/> Horse <input type="checkbox"/> Livestock <input type="checkbox"/> Other
<input type="checkbox"/> Land	<input type="checkbox"/> Raw (Outside Official Plan) <input type="checkbox"/> Designated	<input type="checkbox"/> Bush <input type="checkbox"/> Golf <input type="checkbox"/> Gravel Pit/Quarry <input type="checkbox"/> Industrial <input type="checkbox"/> Hospitality <input type="checkbox"/> Office <input type="checkbox"/> Other <input type="checkbox"/> Parking Lot <input type="checkbox"/> Recreational <input type="checkbox"/> Residential <input type="checkbox"/> Restricted <input type="checkbox"/> Retail <input type="checkbox"/> Waterfront

**3 FREESTANDING**
☒ Yes   ☐ No
**4 TOTAL AREA**

43,388

**4 TOTAL AREA CODE (check 1)**

- ☐ Acres  
☐ Hectares  
☒ Square Feet  
☐ Sq. Ft. Divisible  
☐ Square Metres  
☐ Sq. M. Divisible

% BUILDING

**5 OFFICE/APT AREA**

9,788

**5 OFFICE/APT AREA CODE**

(check 1)

- ☐ Percentage  
☒ Square Feet  
☐ Sq. Ft. Divisible  
☐ Square Metres  
☐ Sq. M. Divisible

**6 INDUSTRIAL AREA**

33,600

**6 INDUSTRIAL AREA CODE**

(check 1)

- ☐ Percentage  
☒ Square Feet  
☐ Sq. Ft. Divisible  
☐ Square Metres  
☐ Sq. M. Divisible

**7 RETAIL AREA**

0

**7 RETAIL AREA CODE**

(check 1)

- ☐ Percentage  
☒ Square Feet  
☐ Sq. Ft. Divisible  
☐ Square Metres  
☐ Sq. M. Divisible

**FORM 590**

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SELLERS INITIALS

PG

Page 2 of 4

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**APPROXIMATE AGE**

- ☐ New  
☐ 0 - 5 Years  
☐ 6 - 15 Years  
☐ 16 - 30 Years  
☐ 31 - 50 Years  
☐ 51 - 99 Years  
☐ 100 + Years

**AREA INFLUENCES**

(check 2)

- ☐ Greenbelt/Conservation  
☐ Major Highway  
☐ Public Transit  
☐ Recreation/Community Center  
☐ Skiing  
☐ Subways

**PHYSICALLY HANDICAPPED-EQUIPPED**

- ☐ Yes ☐ No

**BASEMENT**

- ☐ Yes ☒ No

**UFFI (check 1)**

- ☐ No  
☐ Partially Removed  
☐ Removed  
☐ Yes

**CLEAR HEIGHT**FEET 18 INCHES     **BAY SIZE**WIDTH FT      IN     LENGTH FT      IN     **10 SPRINKLERS (check 1)**

- ☐ No  
☐ Partial  
☒ Yes

**11 UTILITIES**

- ☐ Available  
☒ Yes  
☐ No

**VOLTS**     **AMPS**     **12 WATER (check 1)**

- ☒ Municipal  
☐ None  
☐ Other  
☐ Well

**WATER SUPPLY TYPES**

(check 1)

- ☐ Bored Well  
☐ Cistern  
☐ Community Well  
☐ Drilled Well  
☐ Dug Well  
☐ Lake/River  
☐ Shared Well

**13 AIR CONDITIONING**

(check 1)

- ☐ No  
☒ Partial  
☐ Yes

**14 HEAT TYPE (check 1)**

- ☐ Baseboard  
☐ Elec Forced Air  
☐ Elec Hot Water  
☐ Fan Coil  
☐ Gas Forced Air Closed  
☐ Gas Forced Air Open  
☐ Gas Hot Water  
☐ None  
☐ Oil Forced Air  
☐ Oil Hot Water  
☐ Oil Steam  
☒ Other  
☐ Propane Gas  
☐ Radiant  
☐ Solar  
☐ Steam Radiators  
☐ Water Radiators  
☐ Woodburning

**WASHROOMS** 3**SHIPPING DOOR TYPES****15 TRUCK LEVEL SHIP DOORS #**4DOOR HEIGHT FT      IN     DOOR WIDTH FT      IN     **15 DOUBLE MAN SHIP DOORS #**    DOOR HEIGHT FT      IN     DOOR WIDTH FT      IN     **15 DRIVE-IN LEVEL SHIP DOORS #**1DOOR HEIGHT FT      IN     DOOR WIDTH FT      IN     **15 GRADE LEVEL SHIP DOORS #**DOOR HEIGHT FT      IN     DOOR WIDTH FT      IN     **16 ELEVATOR (check 1)**

- ☐ Freight/Public  
☐ Freight  
☒ None  
☐ Public

**17 GARAGE TYPE (check 1)**

- ☐ Boulevard  
☐ Covered  
☐ Double Detached  
☐ In/Out  
☐ Lane  
☐ None  
☒ Other  
☐ Outside/Surface  
☐ Pay  
☐ Plaza  
☐ Public  
☐ Reserved/Assigned  
☐ Single Detached  
☐ Street  
☐ Underground  
☐ Valet  
☐ Visitor

**PARKING SPACES TOTAL**    **NUMBER OF TRAILER PARKING SPOTS**    **OUTSIDE STORAGE**

- ☐ No ☐ Yes

**18 RAIL**

- ☐ Available ☒ No ☐ Yes

**CRANE**

- ☐ No ☐ Yes

**SURVEY**

- ☐ No ☐ Yes

**SOIL TEST (check 1)**

- ☐ Construction Audit  
☐ Construction & Environmental  
☐ Environment Audit  
☐ No  
☐ Yes

**19 SEWERS (check 1)**

- ☐ None  
☐ Sanitary Available  
☒ Sanitary + Storm  
☐ Sanitary + Storm Available  
☐ Sanitary  
☐ Septic Available  
☐ Septics  
☐ Storm  
☐ Storm Available

**COMMENTS****REMARKS FOR CLIENTS** (use up to 463 characters)

1. Appear in the Brokerage Full, Client Full and Flyer Reports in TorontoMLS and are published on the Internet.  
**2. REMARKS MUST RELATE DIRECTLY TO PROPERTY.**  
**3. DISCLOSE POTL DETAILS & POTL MONTHLY FEES IN THIS FIELD.**

Former federally inspected food plant with spiral freezer and many other freezers and coolers Plant being sold under power of sale as is where is. Offer date is January 31st, 2020.

**EXTRAS** (use up to 240 characters)

1. Appear in the Brokerage Full, Client Full and Flyer Reports in TorontoMLS and are published on the Internet.  
**2. REMARKS MUST RELATE DIRECTLY TO PROPERTY.**



**COMMENTS****REMARKS FOR BROKERAGES** (use up to 280 characters)

1. Appear in the Brokerage Full Report in TorontoMLS and not on the Client Reports and are not published on the Internet.  
 2. **LIST ALL EQUIPMENT THAT IS RENTED, LEASED, OR LEASED TO OWN FOR THE PROPERTY INCLUDING THE DETAILS AND TERMS. REFER TO RESIDENTIAL INFORMATION CHECKLIST - RENTAL OR LEASE - FIXTURE(S)/CHATTEL(S) INCLUDED - FORM 823.**  
 3. **ADDITIONAL CONTACT INFORMATION IS ALLOWED ONLY IN THIS FIELD.**

Please contact listing agents for marketing material and all showings.

**FINANCIAL INFORMATION**

20 **FINANCIAL STATEMENT** 21 **CHATELS** 22 **FRANCHISE** 23 **DAYS OPEN** **HOURS OPEN** 24 **EMPLOYEES**

Yes ☐ No ☐ Yes ☐ No ☐ Yes ☐ No ☐ One ☐ Two ☐ Three ☐ Four ☐ Five ☐ Six ☐ Seven ☐ Varies ☐

25 **SEATS** 26 **L.L.B.O.** **BUSINESS/BUILDING NAME** (37 characters) **TAXES EXPENSE**

Yes ☐ No ☐

**INSURANCE EXPENSE** **MANAGEMENT EXPENSE** **MAINTENANCE** **HEAT EXPENSES** **HYDRO EXPENSE** **WATER EXPENSE**

**OTHER EXPENSES** **GROSS INCOME/SALES** **VACANCY ALLOWANCE** **OPERATING EXPENSES** **NET INCOME BEFORE DEBT**

**EST. INV. VALUES AT COST** **COMMON AREA UPCHARGE** **PERCENTAGE RENT** **EXPENSES** ♦ **YEAR EXPENSES**

Actual ☐ Estimated ☐

♦ COMPLETE ONLY IF YOU HAVE ENTERED ANY AMOUNT(S)

**MORTGAGE COMMENTS**

**BROKERAGE INFORMATION**

**LISTING BROKERAGE** **OFFICE PHONE** (416) 777-2200

**COLLIERS MACAULAY NICOLLS INC.** **L.B. FAX NO.** (416) 492-0100

**BROKER 1/SALESPERSON 1** **BROKER 1/SALESPERSON 1 PHONE** (416) 791-7227

**Anthony Miller** **BROKER 2/SALESPERSON 2 PHONE** (416) 791-7240

**BROKER 2/SALESPERSON 2** **Jonathan Howard**

**COMMISSION TO CO-OPERATING BROKERAGE** 1.5%

**SPIS** **ENERGY CERTIFICATION** **CERTIFICATION LEVEL**

☐ Yes ☒ No ☐ Yes ☐ No

**GREEN PROPERTY INFORMATION STATEMENT** **DISTRIBUTE TO DDF™/IDX** **DISTRIBUTE TO INTERNET** **DISPLAY ADDRESS ON INTERNET**

☐ Yes ☐ No ☒ Yes ☐ No ☒ Yes ☐ No ☒ Yes ☐ No

**APPOINTMENTS** **PERMISSION TO CONTACT LB TO ADVERTISE**

☐ Yes ☒ No

**OCCUPANCY** (check 1) **CONTACT AFTER EXPIRED** **HOLDOVER DAYS** 180

☐ Owner/Tenant ☐ Owner ☐ Partial ☐ Tenant ☒ Vacant ☐ Yes ☒ No

**VIRTUAL TOUR URL** (100 characters)

**PHOTO OPTIONS**

☐ Use photo from photo library ☒ Upload your own photo(s) ☐ No photo for this listing

SELLER HEREBY ACKNOWLEDGES HAVING RECEIVED A COPY OF PART 2 OF 2 OF THE LISTING AGREEMENT.

SIGNATURE *Paul Gerni*

DATE December 11, 2019

SIGNATURE

DATE

**FORM 590**

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REV. APRIL 2017

Page 4 of 4

WEBForms® Dec/2018

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. Colliers International (hereinafter, the "Broker") acknowledges that the sale is taking place pursuant to the court order of The Honourable Justice McEwen 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 "A" 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.

DS  
GH

P6

# **APPENDIX “E”**





# Final Sales and Marketing Report - 1405 Morningside Avenue

February 19, 2020

Prepared For:  
**MSI Spergel Inc.**  
Philip Gennis

Prepared By:  
**COLLIERS INTERNATIONAL**  
245 Yorkland Boulevard, Suite 200  
Toronto, Ontario M2J 4W9  
Anthony Miller, Associate Vice President  
Jonathan Howard, Senior Sales Representative



# Final Report



February 2020

1405 Morningside Avenue, Toronto

Inquiries → 25 Inquiries | 19 Tours | 6 Offers

Date	Company/Client Name	Use	Package	Showing	Interest Level	Offer Form Requested
Dec 7	Taylor Farris & Dane Gilbert - Colliers	Forest Ridge Inc.	Yes	Yes (2x)	High	Yes
Dec 11	Ivan Mates – CBRE	Warehouse User	Yes	Yes	N/A	Yes
Dec 11	Richard Burton – Cushman	N/A	Yes	No	N/A	No
Dec 16	Mike Gainham – Avison	Warehouse User	Yes	Yes	Medium	No
Dec 16	Samy	Warehouse User	Yes	Yes	Low	No
Dec 16	David Moore – Industite	Food User	Yes	Yes (2x)	High	Yes
Dec 17	Terry DiFeliche – CBRE	Printing Company	Yes	Yes	Low	No
Dec 17	T Ganesh	N/A	Yes	Yes	Low	No
Dec 18	Taimur Khan – Royal LePage	Food User	Yes	Yes	Low	No
Dec 20	Kirk Byers – Rentex	11807416 Canada Corporation	Yes	Yes (2x)	High	Yes
Dec 23	Norma Rawlings	Public Storage Company	Yes	Yes	Medium	Yes
Dec 23	Richard Stern	Real Estate Developer	Yes	No	Low	No
Dec 24	Georgina Bloom		Yes	No	Low	No
Dec 25	Mustafa Wali – Royal LePage		Yes	Yes	Yes	
Jan 1	Elvis Li – Homelife	Food User	Yes	Yes	High	
Jan 7	Mark Stainer – Avison	Warehouse	Yes	Yes	Medium	No

Top Two Offers

# Final Report



February 2020

1405 Morningside Avenue, Toronto

## Inquiries

Date	Company/Client Name	Use	Package	Showing	Interest Level	Offer Form Requested
Jan 7	Mark Stainer – Avison	Food User	Yes	Yes	Medium	No
Jan 8	Ryan Hood – Avison	Warehouse	Yes	Yes	Medium	No
Jan 14	Aaron Messenger	Real Estate Developer	Yes	Yes	Medium	Yes
Jan 14	Adelina Wong – AYY Real Estate	Food User	Yes	Yes	Low	No
Jan 14	Paul Jone & Joyce Wong – Visar Real Estate	Chinese Food Company	Yes	Yes	High	Yes
Jan 15	Paul Jone – Visar Real Estate	Chinese Food User (Different Client)	Yes	Yes (2x)	Medium	Yes
Jan 16	Peter DeGuerre – Lennard	N/A	Yes	No	Low	No
Jan 21	Tahir - Eagle Poultry	Food User	Yes	No	No	TBC
Jan 21	G&L Seafood – Chris	Food User	Yes	Yes	Medium	Yes

# Final Report

## Other Notes

- The Listing Team has enlisted a demolition company to get a quote to knock down all interior walls and open up the warehouse area. Demolition of all refrigeration square footage was estimated to be \$350,000 - \$400,000.
- Several other phone inquiries from investors looking for income property. However, upon realizing this property will be delivered vacant they retracted their interest in the property at this time.
- Offer date was January 31, 2020 – we received six (6) offers.

## Marketing Initiatives *(On-going or Completed)*

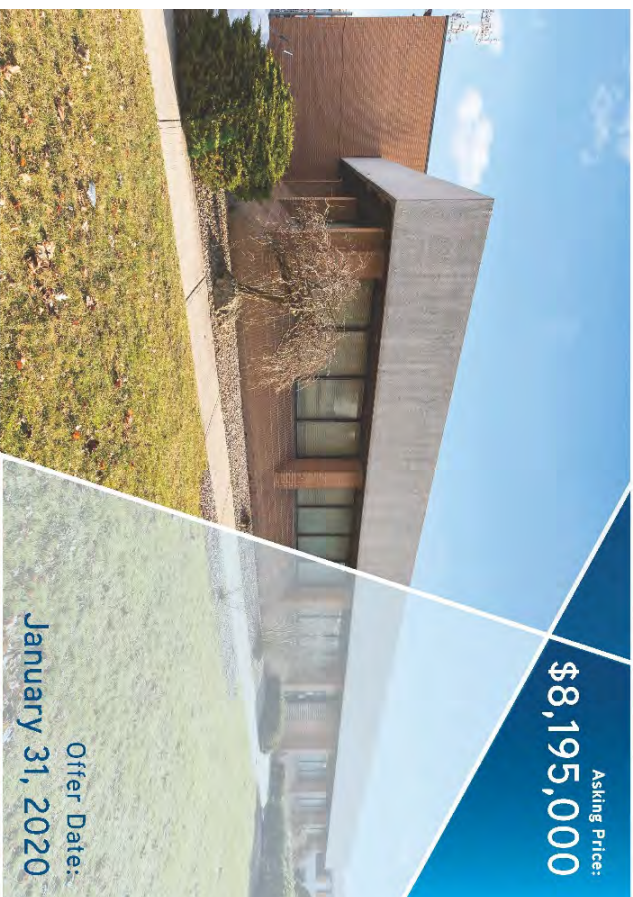
Site Signage	Sign in place
Listing Posted on Collierscanada.com	Collierscanada.com traffic – 120,000 Canadian visitors each month - #1 Commercial Real Estate site in Canada
Professional Photography	Complete December 2019
Flyers	Completed December 2019 and Sent on demand
Brokerage Advertising	Globe and Mail
Web Advertising	Colliers.com, Toronto MLS
Monthly E-mail Blast	E-mail blasts are sent to approximately 350+ brokers Completed on January 7 when everyone back from holidays
Globe and Mail	Featured in January 28 <sup>th</sup> Globe and Mail Ad
Cold Calling Campaign	Broker Blast, Limited Door Knocking, Targeted Mailers

# Final Report



## Appendix A – Package For 1405 Morningside Avenue

INDUSTRIAL BUILDING FOR SALE  
Exceptional Location Adjacent to 401



43,388 SF on  
2.73 ACRES

1405 Morningside Ave  
TORONTO, ON

Accelerating Success.



Convenient location, minutes to Highway 401 and in close proximity to many amenities.



Generous shipping apron allows for 53' trailers and lots of parking for vehicles.



Freestanding industrial building on oversized lot with heavy power.

1405 MORNINGSIDE AVENUE // TORONTO  
Industrial Building for Sale



### PROPERTY DETAILS

Building Size:	43,388 SF (23% Office)
Land Area:	2.73 Acres
Zoning:	E 0.7
Taxes:	\$91,995.00 (2019)
Power:	2000 Amps
Parking:	120 Surface Spaces
Shipping:	4 Truck Level / 1 Drive-In Doors
Clear Height:	18 Feet
Estimated Age:	37 Years

### HIGHLIGHTS

- > Generous shipping apron and extra parking
- > Well located oversized lot close to 401
- > Functional clear height
- > Floor drain system and heavy power
- > Roof and HVAC replaced in 2016
- > Formerly Federally Inspected food plant with spiral freezer and many other freezers and coolers

Accelerating Success.



# Final Report

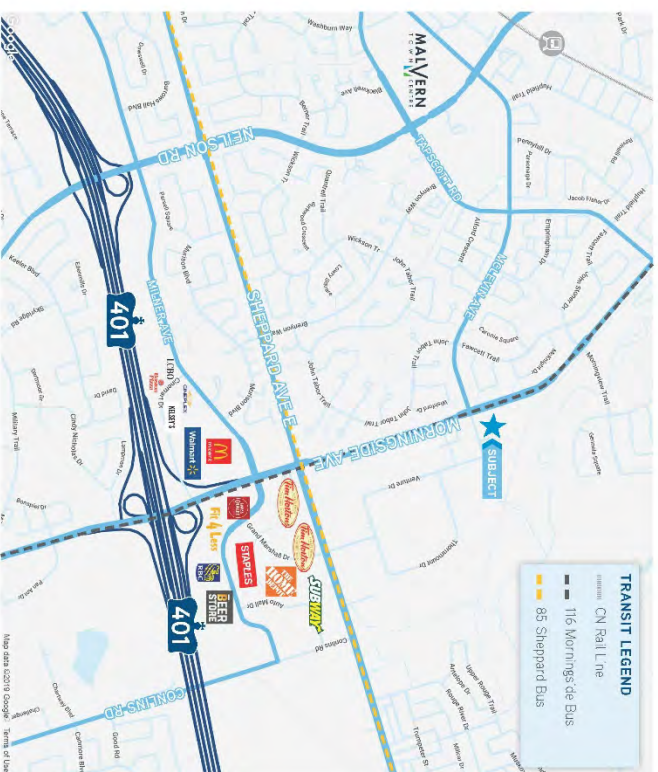


## Appendix A – Package For 1405 Morningside Avenue

1405 MORNINGSIDE AVENUE // TORONTO  
Industrial Building for Sale



### LOCATION



**DRIVE TIMES**

Highway 401	4.0 km   9 Mins
Highway 7/407	91 km   15 Mins
DVP	16 km   18 Mins
Downtown	31.7 km   30 Mins
Pearson Airport	38.2 km   32 Mins

Source: Google Maps

For More Information Contact

**Jonathan Howard**  
Senior Sales Representative  
D: 416 791 7240  
jonathan.howard@colliers.com

**Anthony Miller\***  
Assoc. Site Vice President  
D: 416 791 7227  
anthony.miller@colliers.com

Accelerating success.

1405 MORNINGSIDE AVENUE // TORONTO  
Industrial Building for Sale



### ZONING / PERMITTED USES

Industrial Employment (E, D, I)

- Use - E Zone
- In the E zone, the following uses are permitted:
- Ambulance Depot
  - Animal Shelter
  - Artist Studio
  - Automated Banking Machine
  - Brewery
  - Building Supply Yards
  - Carpenter's Shop
  - Cold Storage
  - Contractor's Establishment
  - Custom Workshop
  - Dry Cleaning or Laundry Plant
  - Financial Institution
  - Fire Hall
  - Industrial Sales and Service Use
  - Kennel
  - Laboratory
  - Office
  - Park
  - Performing Arts Studio
  - Pet Services
  - Police Station
  - Printing Establishment
  - Production Studio
  - Public Works Yard
  - Service Shop
  - Software Development and Processing
  - Warehouse
  - Wholesaling Use [ By-law: OMB PL130592 ]
- Use with Conditions - E Zone
- In the E zone, the following uses are permitted if they comply with the specific conditions associated with the reference number(s) for each use in Clause 60.20.20.100:
- Body Rub Service (32)
  - Cogeneration Energy (26)
  - Crematorium (33)
  - Drive Through Facility (5,21)
  - Eating Establishment (3,19,30)
  - Marijuana production facility (2)
  - Metal Factory involving Forging and Stamping (25)
  - Open Storage (10)
  - Public Utility (27,29)
  - Recovery Facility (8)
  - Recreation Use (7)
  - Renewable Energy (26)
  - Retail Service (3)
  - Retail Store (4,30)
  - Shipping Terminal (11)
  - Take-out Eating Establishment (3,30)
  - Transportation Use (28)
  - Vehicle Depot (6)
  - Vehicle Fuel Station (16,30)
  - Vehicle Repair Shop (23)
  - Vehicle Service Shop (17,31)
  - Vehicle Washing Establishment (18)
- Use with Conditions - E Zone
- In the E zone, the following uses are permitted if they comply with the specific conditions associated with the reference number(s) for each use in Clause 60.20.20.100:
- 8. Large Scale Smelting or Foundry Operations for the Primary Processing of Metals;
  - 9. Pesticide or Fertilizer Manufacturing;
  - 10. Petrochemical Manufacturing;
  - 11. Primary Processing of Gypsum;
  - 12. Primary Processing of Limestone;
  - 13. Primary Processing of Oil-based Paints, Oil-based Coatings or Adhesives;
  - 14. Pulp Mill, using pulpwood or other vegetable fibres;
  - 15. Resin, Natural or Synthetic Rubber Manufacturing;
  - 16. Tannery;
- All Manufacturing Uses except:
1. Abattoir, Slaughterhouse or Rendering of Animals Factory;
  2. Ammunition, Firearms or Fireworks Factory;
  3. Asphalt Plant;
  4. Cement Plant, or Concrete Batching Plant;
  5. Crude Petroleum Oil or Coal Refinery;
  6. Explosives Factory;
  7. Industrial Gas Manufacturing;

\*Not a government designated driver to vehicle safety device or child restraint use

Accelerating success.

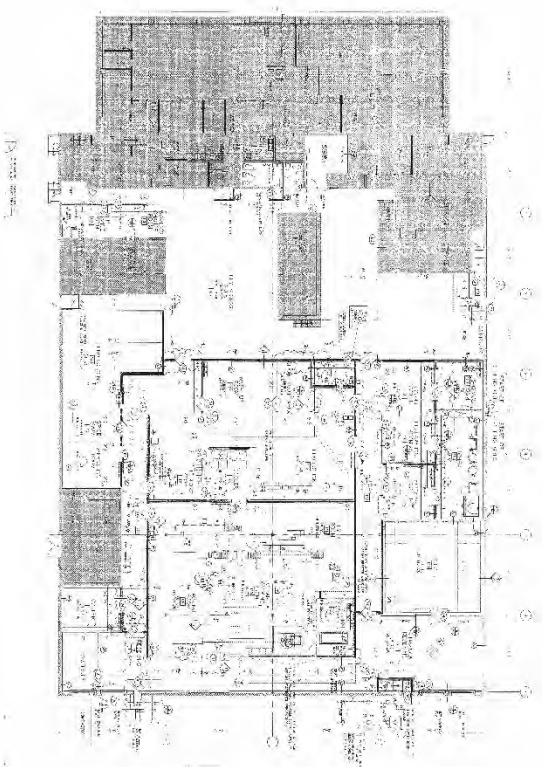
# Final Report

## Appendix A – Package For 1405 Morningside Avenue

1405 MORNINGSIDE AVENUE // TORONTO  
Industrial Building for Sale



### BUILDING PLAN



**Anthony Miller**  
Associate Vice President  
D: 416 791 7227  
anthony.miller@colliers.com

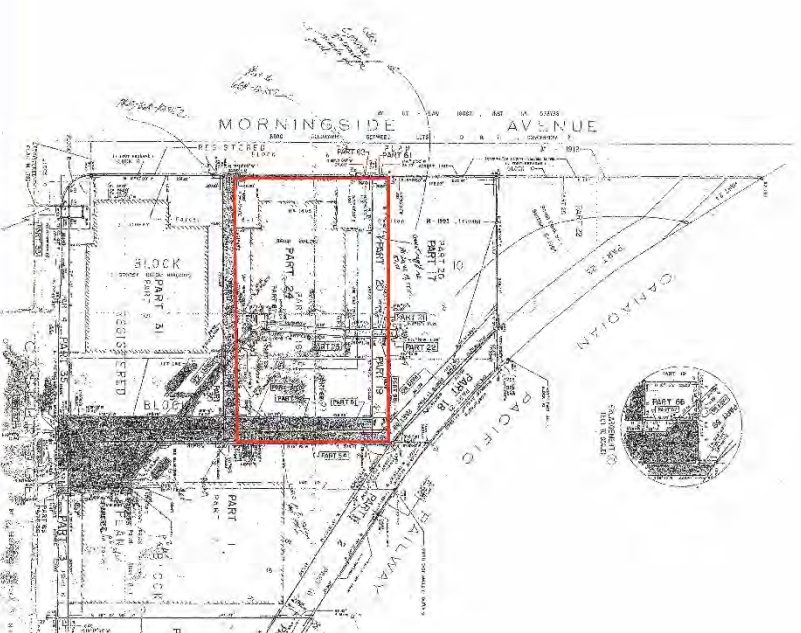
**Jonathan Howard**  
Senior Sales Representative  
D: 416 791 7240  
jonathan.howard@colliers.com

Appendix A success

1405 MORNINGSIDE AVENUE // TORONTO  
Industrial Building for Sale



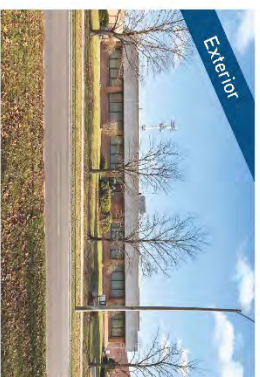
### SURVEY



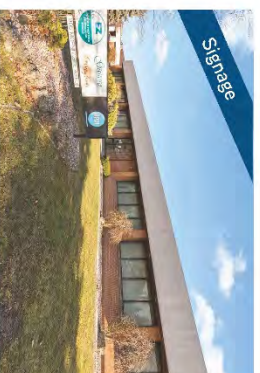
Appendix A success



**INDUSTRIAL BUILDING FOR SALE**  
1405 MORNINGSIDE AVENUE // TORONTO



Exterior



## Signage



Loading Dock



Fenced Lot

**COLLIERS INTERNATIONAL**  
245 Yorkland Blvd., 200  
Toronto, ON M2J 4W9  
416 777 2200



**ANTHONY MILLER**  
**ASSOCIATE VICE PRESIDENT**  
**Sales Representative**  
**P: +1 416 791 7227**  
**[anthony.miller@colliers.com](mailto:anthony.miller@colliers.com)**



**JONATHAN HOWARD**  
SENIOR SALES REPRESENTATIVE  
P: +1 416 791 7240  
jonathan-howard@colliers.com





# Final Report

## Appendix B – MLS Listing on TREB

<p><b>Photo Not Available</b></p>		<p>1405 McMillan Ave Toronto Ontario M1B 3J1 Toronto E11 Midtown Toronto Type: N SFR: N Year: 1995.00 / 2019 / Annual Larger: Porch Of Block Q-1 Section M1919, Being Part Of Industrial Price Standing Cook/food/food inspect Com Cnld Fee D/Occup St: Morningstar Awd Highway 401</p>		<p>For Sale Lea Status: New DOM: 1 Occup: Vacant Freeholdng Y SFR: N Franchise: Lea Term: 7 Holdover: 150</p>		<p>Lea \$5,195,000.00 For Sale</p>
		<p>Prepared by: MARY TERZEVSKI, Administrator COLLIERS MACAULAY NICOLS INC., BROKERAGE 245 Yorkland Blvd. Ste. 200 Toronto, ON M2H1N1 416-777-2200 P: 416-777-2200 F: 416-777-2200</p>				
<p>MLS#: E4651945     Subject: Mail Spoiled Inc. In Its Capacity As Court-Appointed Receiver Of Presentation Reference: Immediato     AR#: 180112710000000     Contact After Exp: N</p>						
<p>Total Area: 43,338 Sq. Ft. Office Area: 9,738 Sq. Ft. Industrial Area: 33,600 Sq. Ft. Retail Area: App Area: Vols: Amps: Zone: Industrial M / E 07 Track Level: 4 Grade Level: 0 Drive In: 1 Double Man: 0 Clear Height: 18.0 Sprinkler: Y Heat: Chiller Phys Hdp Eqp:</p>		<p>Survey: Lot Bldg/Lnd/Om: 249.29 x 434.75 Fced Lot Lot Inrg Bay Size: %Bldg: Washrooms: 3 Watr: Watr Supply: Sewers: AC: Utilites: Garage Type: Park Space: Energy Curt: Curt Level: Green P/B:</p>		<p>Soil Test: Out Storage: Rail: Crane: Basement: Elevator: UFFI: Assessment: Chiller: LLBO: Days Open: Hours Open: Employee: Sealt: Area Int:</p>		<p>Financial Stmt:</p>
<p>Actual/Estimated Taxes: Heat: Insur: Hydro: Mgmt: Water: Other: Mgmt: Other:</p>		<p>Gross Inc/Sales: Vacancy Allow: Operating Exp: =NetInc/Old: Fair Year:</p>		<p>Est/Valuat At Cost: Com Area Upcharges: % Rent:</p>		
<p>Client Remarks: U Confirmed: "Jambin Inc. And Not In Any Capacity Of Personal Capacity" Former Federally Inspected Food Plant With Spiral Freezer And Many Other Freezers And Cookers. Offer Date Is January 31, 2020 Expiry: "OT Blocks 9 &amp; 10, Plan M-1995 &amp; Part Of Block Q, Being A Reserve On Plan M-1919, Designated As Parts 19 To 21, 23 To 26, 49 To 53, 55 To 53, 62, 67 &amp; 68 All Inclusive, Plan 66R-15453. Broker Remarks: Please Contact Listing Agents For Marketing Material And All Showings. COLLIERS MACAULAY NICOLS INC., BROKERAGE P/N: 416-777-2200 Fax: 416-482-0100 245 Yorkland Blvd. Ste. 200 Toronto M2H1N1 ANTHONY WINSTON MILLER, Salesperson 416-791-7227 JONATHAN HOWARD, Salesperson 416-791-7226 Contacted Date: 12/11/2019 Contacted By: Graham Expiry Date: 6/1/2020 Last Update: 12/12/2019 Ad: N Escp: Original: \$5,195,000.00 G/S Comm: 1.5%</p>						

# Final Report



## Appendix C – Globe and Mail Ad

### Accelerating success.



<b>Street Front Retail In The Heart of Queen West</b> <b>FOR SALE</b> 	<b>Clean, Freestanding Industrial Building</b> <b>FOR SALE</b> 	<b>Specialized Manufacturing Building</b> <b>FOR SALE</b> 	<b>The Offices at Burrard Place</b> <b>FOR LEASE</b> 
<b>625 QUEEN STREET WEST, TORONTO, ON</b> <ul style="list-style-type: none"> <li>• Modern retail building at Queen and Bathurst, built in 2011</li> <li>• 12,359 SF across 3 floors, with an additional finished basement (4,004 SF)</li> <li>• Fully occupied with short term leases and below market rents</li> <li>• 44 feet of frontage on Queen Street West</li> </ul> <p><b>Jeremiah Shamesh*</b> <b>Matthew Soper*</b>            jeremiah.shamesh@colliers.com matthew.soper@colliers.com  <a href="mailto:collierscanada.com/P-CAN2004206">collierscanada.com/P-CAN2004206</a></p>	<b>1405 MORNINGSIDE AVE, TORONTO, ON</b> <ul style="list-style-type: none"> <li>• 43,388 SF building on 2.73 Acres</li> <li>• Close to Hwy 401 &amp; great shipping facilities</li> <li>• Heavy power with 18' clear height</li> <li>• Roof and HVAC replaced in 2016</li> <li>• Freezers, coolers &amp; floor drains throughout</li> </ul> <p><b>Anthony Miller*</b> <b>Jonathan Howard*</b>            anthony.miller@colliers.com jonathan.howard@colliers.com  <a href="mailto:collierscanada.com/P-CAN2004280">collierscanada.com/P-CAN2004280</a></p>	<b>87 GLIDDEN ROAD, BRAMPTON, ON</b> <ul style="list-style-type: none"> <li>• 63,842 SF building with 4,300 SF office space</li> <li>• M2-168 Zoning</li> <li>• 40' clear height and 600 V / 1200 A Power</li> <li>• Roof and offices recently done</li> <li>• Close proximity to HWY 410</li> </ul> <p><b>Garry Watts*</b> <b>Pat Phillips*</b>            garry.watts@colliers.com pat.phillips@colliers.com  <a href="mailto:collierscanada.com/P-CAN2003979">collierscanada.com/P-CAN2003979</a></p>	<b>1280 BURRARD STREET, VANCOUVER, BC</b> <ul style="list-style-type: none"> <li>• 13-Storey AAA office tower totaling over 130,000 SF for Lease</li> <li>• Located on the prominent corner of Burrard and Drake Streets, in Downtown Vancouver</li> <li>• Unprecedented signage opportunity</li> <li>• Completion scheduled Q1, 2021</li> </ul> <p><b>Dan Jordan</b>            Personal Real Estate Corporation            dan.jordan@colliers.com  <b>Devin Ringham**</b>            devin.ringham@colliers.com  <a href="mailto:1280burrard.ca">1280burrard.ca</a></p>

Colliers Macaulay Nicols Inc. \*Sales Representative \*\*Broker \*\*Chartered Real Estate Broker

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

# Final Report



## Contact Information

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Associate Vice President

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### Jonathan Howard\*

Senior Sales Representative

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# **APPENDIX “F”**

## **AGREEMENT OF PURCHASE AND SALE**

**THIS AGREEMENT** dated as of the 27<sup>th</sup> day of February, 2020.

BETWEEN:

**MSI SPERGEL INC.**, solely in its capacity as Court-appointed receiver of the assets, undertakings and properties of **TAMTAN INC.**, and **1308963 ONTARIO LIMITED** (o/a EZ Food Group) and not in its personal or corporate capacity and without personal or corporate liability.

(the “**Vendor**”)

OF THE FIRST PART

- and -

**FOREST RIDGE INC.**

(the “**Purchaser**”)

OF THE SECOND PART

### **WHEREAS**

- A. Pursuant to the Receivership Order, msi Spergel Inc. was appointed receiver to, among other things, market and sell the Purchased Assets;
- B. Subject to the terms and conditions contained in this Agreement, the Purchaser has agreed to purchase from the Vendor, and the Vendor has agreed to sell to the Purchaser, all of the right, title and interest of the Debtors, if any, in and to the Purchased Assets on the terms and conditions set out herein.

**IN CONSIDERATION** of the mutual agreements contained in this Agreement, the receipt and sufficiency of which are 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:

**“Act”** means, for purposes of Section 19 hereof only, the *Excise Tax Act* (Canada);

**“Agreement”** means this agreement of purchase and sale, together with the attached schedules;

**“Approval and Vesting Order”** means an order of the Court substantially in the form of the template Model Approval and Vesting Order approved by the Commercial List Users’ Committee for use on the Court, with such reasonable changes as the Purchaser shall request, approving the Transaction and ordering that the Debtors’ right, title and interest in the Purchased Assets, if any, be vested in the Purchaser free and clear of all Encumbrances except for Permitted Encumbrances, such vesting to occur upon the delivery by the Vendor to the Purchaser of the Receiver’s Certificate;

**“Books and Records”** means the files, documents, instruments, papers, operating manuals, books and records (whether stored or maintained in hard copy, digital or electronic format or otherwise), if any, pertaining to the Purchased Assets;

**“Buildings”** means the buildings situate on the Lands, including all improvements and structures thereto and all fixtures affixed thereto or forming a part thereof as well as all plans, designs and specifications in connection therewith;

**“Business Day”** means any day other than a Saturday or a Sunday or a statutory holiday in the Province of Ontario;

**“Closing”** shall have the meaning ascribed to it in Section 7 hereof;

**“Closing Documents”** means the Vendor’s Closing deliveries and the Purchaser’s Closing deliveries together as set forth in Sections 14 and 15 hereof;

**“Court”** means the Ontario Superior Court of Justice (Commercial List);

**“Date of Closing”** shall have the meaning ascribed to it in Section 7 hereof;

**“Debtors”** means collectively the Real Property Debtor and the Equipment Debtor and  
**“Debtor”** means either one of the Debtors;

**“Deposit”** shall have the meaning ascribed to it in Section 4(a) hereof;

**“DRA”** shall have the meaning ascribed to it in Section 8(a)(i) hereof;

**“Encumbrances”** means all liens (statutory or otherwise), charges, security interests, hypothecs, pledges, leases, offers to lease, title retention agreements or arrangements, mortgages, restrictions on use, development or similar agreements, title defects, Work Orders, options, adverse claims, servitudes, encroachments, prior claims, assignments, liabilities (direct,

indirect, absolute or contingent), obligations, trusts, deemed trusts, judgments, writs of seizure or execution, notices of sale, contractual rights, rights of first refusal, or any other right or interest of any nature or any other financial or monetary claims or any other arrangement or condition whether or not registered, published or filed, statutory or otherwise, secured or unsecured, or other encumbrances of any kind or character whatsoever; including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice McEwen dated October 16, 2019; (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 Encumbrances to be listed in the Approval and Vesting Order.

**“Environmental Activity”** means any past or present activity, event or circumstance in respect of any Hazardous Materials, including its storage, use, holding, collection, purchase, accumulation, assessment, generation, manufacture, construction, processing, treatment, stabilization, disposition, handling or transportation or its release, escape, leaching, dispersal, emission, discharge or migration into the natural environment, including movement through or in the air, soil, subsoil, surface water or ground water, or in indoor spaces;

**“Environmental Law”** means any and all applicable federal, provincial, municipal and local laws, by-laws, statutes, regulations, treaties, orders, judgments, decrees, ordinances, official directives, authorizations, rules, codes, permits, licenses, agreement or other governmental restrictions having the force of law relating to the environment, occupational health and safety, health protection, Hazardous Materials or any Environmental Activity;

**“Equipment”** means all chattels, furnishings, furniture, personal or moveable property, if any, located at the Real Property or used in connection with the Real Property by the Real Property Debtor, excluding the EZ Food Equipment;

**“Equipment Debtor”** means 1308963 Ontario Limited (o/a EZ Food Group);

**“ETA Election”** shall have the meaning ascribed to it in Section 19(c) hereof;

**“Existing Active Permits”** shall have the meaning ascribed to it in Section 13(a)(vii) hereof;

**“EZ Food Equipment”** means all chattels, furnishings, furniture, personal or moveable property owned by the Equipment Debtor and listed in Schedule “A” to the EZ Food Equipment Purchase Agreement;

**“EZ Food Equipment Purchase Agreement”** means the agreement of purchase and sale of even date herewith between Platinum Asset Services Inc., in its capacity as auctioneer, as vendor and the Purchaser, as purchaser for the purchase of the EZ Food Equipment;

**“Final Order”** means, in respect of any order of the Court or any other court: (i) the operation and effect of such order shall not have been stayed, amended, modified, reversed, dismissed or appealed within the applicable appeal period; or (ii) any motion or other proceeding to stay, amend, modify, reverse, dismiss or appeal such order shall have been dismissed with no further appeal therefrom and the applicable appeal period shall have expired;

**“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 and/or one or both of the Parties and shall include a board or association of insurance underwriters;

**“Hazardous Materials”** means any substance, material, matter or thing defined or regulated by any Environmental Law, contaminants, pollutants, substances or materials that, when released to the natural environment, could cause, at some immediate or future time, harm or degradation to the natural environment or risk to human health, whether or not such contaminants, pollutants, substances or materials are or shall become prohibited, controlled or regulated by any Government Authority and any “contaminants”, “dangerous substances”, “hazardous materials”, “hazardous substances”, “hazardous wastes”, “industrial wastes”, “liquid wastes”, “pollutants” and “toxic substances”, all as defined in, referred to or contemplated in any Environmental Law and, not to limit the generality of the foregoing, includes asbestos, mould, urea formaldehyde foam insulation and mono- or poly-chlorinated biphenyl wastes;

**“HST”** shall have the meaning ascribed thereto in Section 19(a) hereof;

**“ICA”** shall have the meaning ascribed thereto in Section 11(f) hereof;

**“Indemnitees”** shall have the meaning ascribed thereto in Section 17 hereof;

**“Lands”** means the lands and premises municipally known as 1405 Morningside Avenue, Toronto, as legally described on **Schedule “A”** hereto;

**“Material Damage”** shall have the meaning ascribed to it in Section 9 hereof;

**“Parties”** means the Vendor and the Purchaser, and **“Party”** means any one of the Vendor or the Purchaser;

**“Permits”** means all the authorizations, registrations, permits, permissions, certificates of approval, approvals, consents, commitments, rights or privileges issued, granted or required by any Government Authority in respect of any of the Purchased Assets;

**“Permitted Encumbrances”** means the encumbrances listed in **Schedule “B”** hereof;



**“Person”** means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Government Authority or other entity however designated or constituted;

**“Plans”** means all plans, surveys and drawings, including structural, mechanical, electrical and engineering plans in relation to the Real Property;

**“Purchase Price”** shall have the meaning ascribed thereto in Section 4 hereof;

**“Purchased Assets”**: means all of the interest of the Real Property Debtor, in (a) the Real Property, (b) the Equipment, (c) the Plans, (d) the Permits, (d) the Warranty Rights, (e) the Books and Records, and (f) all appeals and/or claims in respect of realty taxes or assessments in connection with the Real Property and all credits, refunds or rebates arising therefrom or relating thereto;

**“Purchaser”** means Forest Ridge Inc.;

**“Purchaser’s Solicitors”** means the firm of Fasken Martineau DuMoulin LLP;

**“Real Property”** means collectively the Lands and Buildings;

**“Real Property Debtor”** means TamTan Inc.;

**“Receiver’s Certificate”** means a certificate of the Vendor delivered to the Purchaser pursuant to the Approval and Vesting Order confirming payment of the Purchase Price and that all conditions required for Closing have been satisfied or waived;

**“Receivership Order”** means the order of the Honourable Mr. Justice McEwen dated the 16th day of October, 2019 in the receivership proceeding of the Debtors whereby msi Spergel Inc. was appointed receiver of the assets, undertakings and properties of the Debtors;

**“Registry Office”** shall have the meaning ascribed to it in Section 8(a) hereof;

**“TERS”** shall have the meaning ascribed to it in Section 8(a) hereof;

**“Transaction”** means the transaction of purchase and sale contemplated by this Agreement;

**“Vendor”** means msi Spergel Inc., solely in its capacity as Court-appointed receiver of the assets, undertakings and properties of the Debtors, and not in its personal or corporate capacity and without personal or corporate liability;

**“Vendor’s Solicitors”** means the firm of Chaitons LLP;

**“Warranty Rights”** means the full benefit of all warranties, warranty rights, performance bonds and indemnities (implied, express or otherwise) of the Real Property Debtor against manufacturers, contractors or any other Person which apply to the Real Property and/ or the Equipment, but only to the extent that the same are capable of being assigned; and

**“Work Order”** means a work order, deficiency notice, notice of violation, notice of non-compliance, open building permit or other directive from a Government Authority of any defect or deficiency in the construction, state of repair or state of completion of the Purchased Assets or ordering or directing that any alteration, repair, improvement or other work to be done or relating to any non-compliance, or failure to complete an inspection pertaining to any building permit, building or land use by-law, ordinance or regulation.

## 2. **SCHEDULES**

The following Schedule are appended to this Agreement:

Schedule “A”	Legal Description of Lands
Schedule “B”	Permitted Encumbrances
Schedule “C”	City of Building Department Toronto Letter dated January 20, 2020

## 3. **NATURE OF TRANSACTION**

The Purchaser shall purchase and the Vendor shall sell all of the right, title and interest, if any, of the Real Property Debtor in the Purchased Assets, upon and subject to the terms of this Agreement.

## 4. **PURCHASE PRICE**

The aggregate purchase price payable by the Purchaser to the Vendor for the Purchased Assets (the **“Purchase Price”**) shall be the sum of [REDACTED]. The Purchase Price shall be paid, accounted for and satisfied as follows:

- (a) **Deposit**: The Purchaser agrees to deliver to the Vendor within two (2) Business Days of the date of acceptance of this Agreement by the Vendor, by way of certified cheque or wire transfer, a deposit in the amount of [REDACTED] (the **“Deposit”**), which sum shall be held by the Vendor, in trust, in an interest bearing account with any of the Schedule 1 Canadian Chartered Banks, as a deposit pending Closing or termination of this Agreement. Subject only to the terms of this Agreement, the Deposit and all accrued interest thereon is to be credited on account of the

Purchase Price upon completion of the Transaction. In the event that this Agreement is not completed due solely to the Purchaser's default, the Vendor shall be entitled to retain the Deposit and all accrued interest thereon as liquidated damages and not as a penalty as its sole remedy for such default and the Purchaser shall be released from any and all obligations and liabilities under this Agreement. In the event that this Agreement is terminated for any reason whatsoever other than the default of the Purchaser, the Deposit with all accrued interest thereon shall be returned to the Purchaser forthwith, without deduction.

- (b) **Balance Due at Closing:** The balance of the Purchase Price, net of the Deposit and subject to the adjustments contained in this Agreement, shall be satisfied by payment at Closing to the Vendor by way of certified cheque, bank draft or wire transfer drawn upon one of Canada's chartered banks or other financial institution acceptable to the Vendor.
- (c) **Allocations:** The Vendor and the Purchaser acknowledge and agree that the Purchaser is not assuming or continuing the employment of any of the Real Property Debtor's or its affiliates' employees and that the Real Property Debtor shall remain solely responsible for same, to the complete exoneration of the Purchaser. The Parties, acting reasonably and in good faith, covenant to use their best efforts to attempt to agree to allocate the Purchase Price amongst the Purchased Assets in a mutually agreeable manner on or prior to the Closing, provided that if the Parties fail to agree upon an allocation each Party shall be free to make its own reasonable allocation of the Purchase Price between the Purchased Assets for the purposes of the *Income Tax Act* (Canada) and any filings in accordance with the provisions thereof. This Section 4(c) shall survive and not merge on Closing.

## 5. **CLOSING AND POST-CLOSING ADJUSTMENTS**

- (a) **Closing Adjustments:** Adjustment shall be made, as of 12:01 a.m. on the Date of Closing, for realty taxes, local improvement rates, municipal/provincial levies and charges, water and assessment rates, utilities, fuel costs, and any other items which are usually adjusted in purchase transactions involving similar commercial properties in Ontario, so that the Vendor shall pay all expenses and receive all income related to the Real Property which are in respect of any time prior to the Date of Closing and the Purchaser shall pay all expenses and receive all income related to the Real Property which are in respect of any time from and including the Date of Closing. The Date of Closing shall be for the account of the Purchaser.

If the final cost or amount of an item that is to be adjusted cannot be determined at Closing, then an initial adjustment for such item shall be made at Closing, such amount to be estimated by the Vendor, acting reasonably, as of the Date of Closing on the basis

of the best evidence available at the Closing as to what the final cost or amount of such item will be. In each case, when such cost or amount is determined, the Vendor or Purchaser, as the case may be, shall, within 30 days of determination, provide a complete statement thereof to the other and within 30 days thereafter the Vendor and Purchaser shall make a final adjustment as of the Date of Closing for the item in question. In the absence of agreement by the parties, the final cost or amount of an item shall be determined by an accountant or such other financial professional appointed jointly by the Vendor and the Purchaser, with the cost of such accountant's or other financial professional's determination being shared equally between the parties. All re-adjustments shall be requested in a detailed manner on or before the 60<sup>th</sup> day after the Closing Date, after which time neither party shall have any right to request re-adjustment.

- (b) **Property Taxes:** The Vendor acknowledges and agrees that the Purchaser shall be entitled to the benefit of any reduction in the property taxes payable with respect to the Real Property whether relating to the period prior to, on, or after the Date of Closing. To the extent that the Vendor receives any amounts from the applicable municipality in respect of any reduction of property taxes relating to the Real Property the Vendor shall forthwith forward such amounts to the Vendor.

## 6. **TERMS OF PURCHASE**

- (a) **"As Is, Where Is":** The Purchaser acknowledges that, subject to the other provisions of this Agreement, the Vendor is selling and the Purchaser is purchasing the Purchased Assets on an "as is, where is" basis subject to whatever defects, conditions, impediments, Hazardous Materials or deficiencies which may exist on the Date of Closing, including, without limiting the generality of the foregoing, any latent or patent defects in the Purchased Assets. 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 that the Purchaser shall have conducted such inspections of the condition and title to the Purchased Assets as it deems appropriate and shall have satisfied itself with regard to these matters. No representation, warranty or condition expressed or implied, statutory or non-statutory, oral or written has been or will be given by the Vendor as to title, encumbrances, description, fitness for any present or intended purpose or use, the existence or non-existence of Hazardous Materials flowing onto or from the Real Property or any part thereof, or in the air, surface or ground water flowing through, onto or from the Real Property, or any part thereof, compliance or non-compliance with any Environmental Law, any Environmental Activity from, on or in relation to the Lands, the existence, state, nature, identity, extent or effect of any investigations, administrative orders, control orders, stop orders, compliance orders or any other orders, proceedings or actions under any Environmental Law in relation to the Lands, merchantability, condition, or quality, cost, state of repair, degree of

maintenance, durability or in respect of any other matter or thing whatsoever concerning the Purchased Assets, or the right of the Vendor to sell or assign same save and except as expressly provided for in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* of Ontario do not apply hereto and have been waived by the Purchaser. The descriptions of the Purchased Assets contained in this Agreement are for the purposes of identification only and no representation, warranty or condition has or will be given by the Vendor concerning the accuracy of such descriptions. Any documentation, materials or information provided by the Vendor to the Purchaser regarding the Purchased Assets, or any part thereof, was provided solely for the convenience of the Purchaser and is not warranted or represented to be complete or accurate and does not form part of this Agreement. The Purchaser shall and shall be deemed to rely entirely on its own inspections and investigations concerning the Purchased Assets. The Purchaser acknowledges that it shall have no recourse to the Vendor with respect to the environmental condition of the Lands and has satisfied itself with respect to same. If the Closing occurs, the Purchaser shall assume any and all risks relating to the physical condition of the Purchased Assets which existed on or prior to the Date of Closing. Neither the Purchaser nor any permitted occupant of the Lands shall have any recourse to the Vendor as a result of the nature or condition of the Purchased Assets. The Purchaser further acknowledges that all written and oral information (including, without limitation, analyses, financial information and projections, compilations and studies) obtained by the Purchaser from the Vendor or the Debtors with respect to the Purchased Assets or otherwise relating to the Transactions has been obtained for the convenience of the Purchaser only and is not warranted to be accurate or complete. This section shall not merge on Closing and is deemed incorporated by reference into all Closing Documents and deliveries. The Purchaser shall have the right to attend the Property, including all leased premises, with its consultants to view and inspect the Purchased Assets on up to five (5) occasions prior to the time of Closing upon providing to the Vendor not less than one (1) Business Days' prior notice.

- (b) **"Employees"** The Vendor and the Purchaser agree that the Purchaser is not assuming or continuing the employment of any of the Real Property Debtor's or its affiliate's employees and that the Real Property Debtor shall remain solely responsible for same, to the complete exoneration of the Purchaser. This Section 6(b) shall survive and not merge on Closing.

## 7. **DATE OF CLOSING**

Subject to the provisions of Section 12 hereof, the Transaction shall be completed (the moment of completion shall be referred to as **"Closing"**) on the fifth (5<sup>th</sup>) Business Day following the date

upon which the Approval and Vesting Order has become a Final Order (the “**Date of Closing**”), unless the Parties hereto otherwise agree to such other date in writing.

## 8. **ELECTRONIC REGISTRATION**

- (a) In the event that the electronic registration system (“**TERS**”) is operative in the relevant land registry office (the “**Registry Office**”), the following provisions shall apply:
  - (i) The Purchaser shall be obliged to retain a solicitor who is an authorized TERS user, has the necessary computer facilities to complete the Transaction via TERS and is in good standing with the Law Society of Ontario to represent the Purchaser in connection with the completion of the Transaction and shall authorize such solicitor to enter into the Vendor’s Solicitors’ standard form of escrow closing agreement or document registration agreement which, subject to reasonable amendment by the Purchaser, will establish the procedures and timing for closing this Transaction, provided they are in accordance with Law Society guidelines (the “**DRA**”).
  - (ii) The delivery and exchange of the Closing Documents:
    - (1) shall not occur contemporaneously with the registration of the Application for Vesting Order and other registerable documentation; and
    - (2) shall be governed by the DRA, pursuant to which the Vendor’s Solicitors and Purchaser’s Solicitors shall hold all Closing Documents in escrow, and will not be entitled to release them except in strict accordance with the provisions of the DRA.
- (b) The Purchaser expressly acknowledges and agrees that the Vendor will not release the Receiver’s Certificate confirming the effectiveness of the Approval and Vesting Order until the balance of funds due on Closing, in accordance with the statement of adjustments, are remitted by personal delivery to the Vendor’s Solicitors (or in such other manner as the Vendor or Vendor’s Solicitors may direct).
- (c) Notwithstanding anything contained in this Agreement to the contrary, it is expressly understood and agreed by the Parties that an effective tender shall be deemed to have been made by the Vendor upon the Purchaser when the Vendor’s Solicitors have:
  - (i) delivered to the Purchaser’s Solicitors all Closing Documents required to be delivered by the Vendor to the Purchaser pursuant to Section 14 hereof;

- (ii) advised the Purchaser's Solicitors in writing that the Vendor is ready, willing and able to complete the Transaction in accordance with the terms and provisions of this Agreement; and
- (iii) completed all steps required by TERS to complete the Transaction that can be performed or undertaken by the Vendor's Solicitors without the cooperation or participation of the Purchaser's Solicitors, and specifically when the "completeness signatory" for the Application for Vesting Order has been electronically "signed" by the Vendor's Solicitors,

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

- (d) Notwithstanding anything contained in this Agreement to the contrary, it is expressly understood and agreed by the Parties that an effective tender shall be deemed to have been made by the Purchaser upon the Vendor, when the Purchaser's Solicitors have:
  - (i) delivered to the Vendor's Solicitors the balance due at Closing and all Closing Documents required to be delivered by the Purchaser to the Vendor pursuant to Section 15 hereof;
  - (ii) advised the Vendor's Solicitors in writing that the Purchaser is ready, willing and able to complete the Transaction in accordance with the terms and provisions of this Agreement; and
  - (iii) completed all steps required by TERS to complete the Transaction that can be performed or undertaken by the Purchaser's Solicitors without the cooperation or participation of the Vendor's Solicitors, and specifically when the "completeness signatory" for the Application for Vesting Order has been electronically "signed" by the Purchaser's Solicitors,

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

- (e) If through no fault of the Purchaser's Solicitors or the Vendor's Solicitors TERS is unavailable on the Date of Closing, such that the Purchaser's Solicitors are unable to register the Application for Vesting Order, then the Transaction 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 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 8 and the terms of the DRA, the terms of this Section 8 shall prevail.

9. **PRE-CLOSING RISK AND POST-DAMAGE ENTITLEMENTS**

- (a) The Purchased Assets are and shall remain at the Vendor's risk until Closing. In the event of damage to the Purchased Assets prior to the Date of Closing, in excess of [REDACTED], as determined by an independent third party expert appointed by the Vendor ("**Material Damage**"), the Purchaser may, at its option: (a) complete the Transaction without reduction of the Purchase Price, in which event all proceeds of insurance or compensation shall be payable to the Purchaser in addition, the Purchase Price shall be reduced by the amount of the deductible under the Vendor's insurance coverage, if the Vendor has not already paid the deductible.; or (b) rescind this Agreement, and the Parties shall have no further rights and remedies against each other and the Deposit shall be returned to the Purchaser forthwith, without interest or deduction, and the Purchaser shall not be entitled to any other compensation of any kind whatsoever with respect to the failure to close the Transaction as a result of such loss or damage. The Vendor shall use its best efforts to advise the Purchaser, in writing, within twenty-four (24) hours of the Vendor learning of any Material Damage or other damage to the Purchased Assets. The Purchaser shall have five (5) Business Days, or such longer period as the Vendor in its sole and absolute discretion may agree to in writing, from delivery of such notice to advise the Vendor in writing as to its election, if any. In the event that the Purchaser fails to notify the Vendor in writing as to its election within the prescribed time period, the Vendor may terminate this Agreement immediately by providing written notice to the Purchaser and the Parties shall have no further rights and remedies against each other and the Deposit shall be returned to the Purchaser forthwith, without deduction or interest, failing which, the Purchaser shall be deemed to have elected to complete the Transaction in accordance with subparagraph (a) above.
- (b) In the event of damage to the Purchased Assets prior to the Date of Closing that is not Material Damage and provided the damage is fully recoverable from the Vendor's insurance, the Purchaser shall complete the Transaction on the Date of Closing, shall be entitled to receive all insurance proceeds in respect of such damage and the Vendor shall assign and release to the Purchaser its interest in any such insurance proceeds. In addition, the Purchase Price shall be reduced by the amount of the deductible under the Vendor's insurance coverage, if the Vendor has not already paid the deductible.



- (c) In the event of damage to the Purchased Assets prior to the Date of Closing that is not Material Damage, but for which proceeds of insurance in respect of such damage are not actually recoverable, or the amount recoverable plus the amount of any deductible is insufficient to completely repair or restore the damage as determined by an independent third party expert appointed by the Vendor, the Purchaser shall be entitled to exercise its option to terminate, as set out in paragraph (a) above as if the damage was Material Damage and the Deposit returned to the Purchaser forthwith without deduction or interest.
- (d) If, prior to the Date of Closing, all or a material part of the Real Property is expropriated or a notice of expropriation or intent to expropriate all or a material part of the Real Property is issued by any Government Authority, the Vendor shall immediately advise the Purchaser thereof by written Notice. The Purchaser shall, by written Notice given within five (5) Business Days after the Purchaser receives written Notice from the Vendor of such expropriation, elect to either: (i) complete the Transaction in accordance with the terms hereof without reduction of the Purchase Price, and all compensation for expropriation shall be payable to the Purchaser and all right, title and interest of the Vendor or the Real Property Debtor to such amounts shall be assigned to the Purchaser on a without recourse basis; or (ii) rescind this Agreement and not complete the Transaction, in which case all rights and obligations of the Vendor and the Purchaser in this Agreement (except for those obligations which are expressly stated to survive the termination of this Agreement) shall terminate, and the Deposit shall be returned to the Purchaser forthwith without interest or deduction and the Vendor shall be released of its obligations under the Agreement to complete the Transaction.

#### 10. **VENDOR'S REPRESENTATIONS AND WARRANTIES**

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

- (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) and the Vendor is not now and does not intend to become, prior to Closing, an agent or a trustee of such non-resident;
- (b) **Receivership Order:** the Receivership Order is in full force and effect;
- (c) **HST Registration:** The Vendor shall be registered for the purposes of the ETA prior to the Closing and shall provide its registration number to the Purchaser on or prior to the Closing; and
- (d) **Brokers:** The Vendor agrees to compensate its listing broker, Colliers International, in connection with the Transaction in accordance with its listing agreement with Colliers

International. The Vendor also agrees to compensate the Purchaser's Broker, Colliers International (represented by Dane Gilbert and Taylor Farris) in connection with the Transaction, by payment to Colliers International of a commission equal to 2.00% of the Purchase Price plus HST upon a successful closing of the Transaction, which commission is in addition to any listing fee or commission the Vendor has agreed to pay Colliers International as listing broker, and agrees to indemnify the Purchaser with respect to any and all commissions, fees or other remuneration owing to Colliers International as listing broker and as agent to the Purchaser in connection with the Transaction. The Vendor shall be solely responsible for the payment of all commissions and fees payable to any real estate agent or broker engaged by the Vendor in connection with the Transaction and shall indemnify the Purchaser in connection therewith.

#### 11. **PURCHASER'S REPRESENTATIONS AND WARRANTIES**

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

- (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 will violate:

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

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

- (b) this Agreement has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms;

- (c) there are no orders or proceedings pending before any Government Authority, or threatened to be brought by or before any Government Authority by or against the Purchaser, affecting the legality, validity or enforceability of this Agreement or the consummation of the Transaction by the Purchaser;
- (d) the Purchaser has made adequate arrangements to have sufficient funds available to satisfy its obligations to pay the Purchase Price to the Vendor on Closing;
- (e) the Purchaser will be responsible for and will remit to or reimburse, as applicable, all taxes, including, without limitation, land transfer tax, levies or the like that arise from the sale of the Purchased Assets unless otherwise specified in this Agreement;
- (f) **Investment Canada Act (Canada)**: the Purchaser is not a “non-Canadian”, as defined in the *Investment Canada Act* (Canada) (“ICA”).
- (g) the Purchaser acknowledges that it is responsible for conducting its own searches and investigations of the current and past uses of the Purchased Assets;
- (h) the Purchaser acknowledges the Vendor makes no representation or warranty of any kind that the present use or future intended use by the Purchaser of the Purchased Assets is or will be lawful or permitted;
- (i) the Purchaser is satisfied with the Purchased Assets and all matters and things connected therewith or in any way related thereto;
- (j) the Purchaser is relying entirely upon its own investigations and inspections in entering into this Agreement;
- (k) **Brokers**: The Purchaser represents and warrants to the Vendor that it has not retained any real estate broker or agent with respect to the Transaction (other than Colliers International, represented by Dane Gilbert and Taylor Farris), and agrees to be solely responsible for the payment of all commissions and fees payable to any real estate agent or broker engaged by the Purchaser (other than to Colliers International) in connection with this Transaction and shall indemnify the Vendor in connection therewith; and
- (l) **HST Registration**: The Purchaser shall be registered for the purposes of the ETA prior to the Closing and shall provide its registration number to the Vendor on or prior to the Closing.

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

12. **CONDITIONS OF CLOSING IN FAVOUR OF THE VENDOR**

- (a) The Vendor's obligations contained in this Agreement shall be subject to the fulfilment at or prior to Closing, of each of the following conditions:
- (i) **Representations and Warranties**: each of the Purchaser's representations and warranties contained in this Agreement shall be true, in all material respects, at and as of the date hereof and each of such representations and warranties shall continue to be true, in all material respects, as at Closing;
  - (ii) **Covenants/Agreements**: the Purchaser shall have complied with each and every covenant/agreement made by it herein and required to be completed at or prior to Closing;
  - (iii) **No Legal Action**: no action or proceeding shall be pending or threatened by any Person to enjoin, restrict or prohibit the completion of the Transaction or the right of the Purchaser to own the Purchased Assets after the time of Closing and no order restraining or prohibiting Closing shall have been made by the Court;
  - (v) **Approval and Vesting Order**: the Vendor shall have obtained the Approval and Vesting Order;
  - (vi) **No Stay or Appeal**: The Approval and Vesting Order shall be a Final Order; and
  - (vii) **Corporate Steps and Proceedings**: all necessary corporate steps and proceedings shall have been taken by the Purchaser to permit the Purchaser's execution of this Agreement and performance of each of the Purchaser's obligations hereunder.

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

- (b) The Vendor covenants to use reasonable commercial efforts to fulfil or cause to be fulfilled the condition contained in Section 12(a)v and the Purchaser covenants to use its reasonable commercial efforts to fulfil or cause to be fulfilled the conditions contained in Section 12 hereof prior to Closing which are under the Purchaser's control.
- (c) In the event that any of the foregoing conditions shall not be fulfilled, in whole or in part, at or prior to Closing, the Vendor may, in its absolute and unfettered discretion, terminate this Agreement by written notice to the Purchaser without penalty or liability whatsoever to the Vendor, subject to the provisions of Section 4(a) hereof with respect to the Deposit and interest thereon, and otherwise without cost or other compensation

and each of the Vendor and the Purchaser shall be released from its obligations and liabilities hereunder.

13. **CONDITIONS OF CLOSING IN FAVOUR OF THE PURCHASER**

- (a) The Purchaser's obligations contained in this Agreement shall be subject to the fulfilment, at or prior to Closing, of each of the following conditions:
- (i) **Representations and Warranties:** each of the Vendor's representations and warranties contained in this Agreement shall be true, in all material respects, at and as of the date hereof and each of such representations and warranties shall continue to be true, in all material respects, as at Closing;
  - (ii) **Covenants/Agreements:** the Vendor shall have complied with each and every covenant/agreement made by it herein and required to be completed at or prior to Closing;
  - (iii) **No Legal Action:** no action or proceeding shall be pending or threatened by any Person to enjoin, restrict or prohibit the completion of the Transaction or the right of the Purchaser to own the Purchased Assets after the time of Closing and no Order restraining or prohibiting Closing shall have been made by the Court; and
  - (iv) **Approval and Vesting Order:** the Vendor shall have obtained and provided to the Purchaser the Approval and Vesting Order;
  - (v) **No Stay or Appeal:** the Approval and Vesting Order shall be a Final Order;
  - (vi) **Completion of EZ Foods Equipment Purchase Agreement:** the contemporaneous successful completion, on the Date of Closing, of the acquisition by the Purchaser of the EZ Foods Equipment pursuant to the EZ Foods Equipment Purchase Agreement, provided that if the acquisition of the EZ Foods Equipment is not successfully completed solely as a result of the default of the Purchaser under the EZ Foods Equipment Purchase Agreement then the Purchaser shall not be able to rely on this provision to terminate this Agreement; and
  - (vii) **No Work Orders:** there shall be no Work Orders issued in respect of or affecting the Purchased Assets on the Date of Closing, save and except for the 6 active building permits, detailed in the letter from the City of Toronto Building Department to the Purchaser's Solicitors dated January 20<sup>th</sup>, 2020 and attached hereto as **Schedule "C"** (the "**Existing Active Permits**").

For greater certainty, each of the conditions contained in this Section 13(a) have been inserted for the benefit of the Purchaser and may be waived by the Purchaser in its sole discretion.

- (b) The Vendor covenants to use reasonable commercial efforts to fulfil or cause to be fulfilled all of the conditions contained in section 13 which are under the Vendor's control.
- (c) In the event that any of the foregoing conditions shall not be fulfilled at or prior to Closing, the Purchaser may, in its absolute and unfettered discretion, terminate this Agreement by written notice to the Vendor without any penalty or liability whatsoever to the Purchaser, subject to the provisions of Section 4(a) hereof with respect to the Deposit and interest thereon, and otherwise without cost or other compensation and each of the Vendor and the Purchaser shall be released from all other obligations hereunder.

#### 14. **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;
- (b) **Statement of Adjustments:** a statement of adjustments prepared in accordance with Section 5 hereof, to be delivered not less than two (2) Business Days prior to Closing;
- (c) **Undertaking To Re-Adjust:** the Vendor's undertaking to re-adjust any item on or omitted from the statement of adjustments, subject to the limitation contained in Subsection 5(a) hereof;
- (d) **Assignment and Assumption Agreement:** an assignment and assumption agreement for all Warranty Rights, Plans and Permits relating to the period from and after the Date of Closing, and to the extent not assignable an agreement to hold same in trust for the Purchaser;
- (e) **Bill of Sale:** a bill of sale for the Equipment;
- (f) **Vendor's Certificate:** the Vendor's Certificate setting out that each of the Vendor's representations and warranties contained in this Agreement are true, in all material respects, as of Closing and that each of the conditions in section 13 have been fulfilled, performed or waived as of the time of Closing;

- (g) **Books and Records/Keys, etc.:** the Books and Records and all keys, security cards and access codes for the Buildings and combinations and passwords to vaults and combination locks or other security features in the Buildings in the Vendor's possession or control;
- (h) **ETA Election:** the ETA Election, if applicable;
- (i) **Receiver's Certificate:** the Receiver's Certificate;
- (j) **Certificate Re: Appeals:** a certificate of the Vendor certifying that except as disclosed in the Certificate, the Vendor has not been served with any notice of appeal with respect to the Receivership Order or the Approval and Vesting Order, or any notice of any application, motion or proceeding seeking to set aside or vary, amend or alter the Receivership Order or Approval and Vesting Order or to enjoin, restrict or prohibit the Transaction.
- (k) **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";
- (l) **Receipt:** a receipt from the Vendor for the Purchase Price; and
- (m) **Further Documentation:** such further documentation relating to the completion of this Agreement not specifically referred to above or as may be reasonably required by the Purchaser or the Purchaser's Solicitors or by applicable law or by Government Authority, provided that such further documentation is in a form satisfactory to the Vendor, taking into consideration the fact that the Vendor is selling the Purchased Assets as Receiver.

#### 15. **PURCHASER'S CLOSING DELIVERIES**

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

- (a) **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 5(a) hereof;
- (b) **Purchaser's Certificate:** the Purchaser's certificate setting out that each of the Purchaser's representations and warranties contained in this Agreement are true in all material respects as at Closing and that each of the conditions in Section 12 have been fulfilled, performed or waived as of the time of Closing;

- (c) **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;
- (d) **Property Tax:** such directions, acknowledgments and other documents as may be necessary or desirable to ensure that the benefit of any reduction in the property taxes payable with respect to the Real Property is received by the Purchaser;
- (e) **Taxes:** payment or evidence of payment of applicable HST or alternatively, the ETA Election, if applicable, or appropriate self-assessment or exemption documentation;
- (f) **HST Indemnity:** the indemnity provided for under Subsection 19(d) hereof;
- (g) **Certificate of Incumbency:** a certificate of incumbency setting out the names and specimen signatures of each of the directors and officers of the Purchaser;
- (h) **Balance Due at Closing:** the balance of the Purchase Price described in Subsection 4(b) hereof; and
- (i) **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 provided that such further documentation is in form satisfactory to the Purchaser, acting reasonably.

16. **APPROVAL AND VESTING ORDER**

Upon acceptance of this Agreement by the Vendor:

- (a) the Vendor shall use all commercially reasonable efforts to obtain the Approval and Vesting Order (i) approving the Transaction; (ii) and vesting in the Purchaser the Purchased Assets, free and clear of all Encumbrances, other than Permitted Encumbrances, such vesting to occur upon the delivery by the Vendor to the Purchaser of the Receiver's Certificate. The Vendor shall consult and co-ordinate with the Purchaser and the Purchaser's Solicitors regarding the parties upon whom the motion seeking the Approval and Vesting Order will be served and the manner and timing of service, provided that the motion seeking the Approval and Vesting Order shall be served upon such parties not less than seven (7) Business Days prior to the scheduled date for hearing of the motion;
- (b) the Vendor shall provide to the Purchaser: (i) not less than three (3) Business Days before service thereof, a draft of the report to be served by it in connection with the motion seeking the Approval and Vesting Order, and (ii) promptly upon receipt, a copy



of all materials received by the Vendor or filed with the Court in response or opposition to the motion seeking the Approval and Vesting Order; and

- (c) the Purchaser shall cooperate with the Vendor in its efforts to obtain the Approval and Vesting Order, and shall use reasonable commercial efforts to provide or cause to be provided to the Vendor, at the Vendor's request, all certificates, affidavits or other documents and instruments reasonably required by the Vendor to obtain the Approval and Vesting Order, provided that the Vendor shall redact from court materials served or filed by them such sensitive information pertaining to the Purchaser as the Purchaser may reasonably request, it being understood by the Purchaser that the Court may require that an unredacted copy of such materials be filed in which case the Vendor shall use commercially reasonable efforts to obtain an order from the Court sealing such unredacted copy on terms reasonably acceptable to the Purchaser.

17. **INDEMNITY AND RELEASE**

INTENTIONALLY DELETED

18. **PLANNING ACT (ONTARIO)**

This Agreement shall be effective to create an interest in the Buildings or Lands for the Purchaser only if Part VI of the *Planning Act* (Ontario) is complied with prior to Closing or if a Court orders the completion of the Transaction notwithstanding what would otherwise be non-compliance with Part VI of the *Planning Act* (Ontario).

19. **HARMONIZED GOODS AND SERVICES TAX**

- (a) **Application of HST to this Agreement:** If the Transaction shall be subject to harmonized sales tax ("HST") levied pursuant to the Act, then HST shall be in addition to and not included in the Purchase Price, shall be payable by the Purchaser and shall be collected and remitted in accordance with the Act.
- (b) **HST Registration:** The Purchaser is registered for the purposes of the Act, and its HST number is 787293281RT0001, or shall be registered as of Closing.
- (c) **Self-Assessment:** If part or all of the said Transaction is subject to HST then, where applicable, the Purchaser shall have the option of furnishing the Vendor with appropriate exemption certificates and/or self-assessment indemnification documentation in form satisfactory to the Vendor acting reasonably and in such an event HST shall not be collected by the Vendor on the Closing. If available, the Vendor agrees to execute an election pursuant to s. 167(1) of the Act to have the sale of the Purchased Assets take place without the requirement for the collection or remittance of

HST to the extent possible (the “**ETA Election**”). In such case, the Purchaser agrees to file such election in accordance with the provisions of the *Act*.

- (d) **HST Indemnity:** The Purchaser shall indemnify and save harmless the Vendor from all 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.

## 20. **POSSESSION**

The Vendor shall remain in possession of the Purchased Assets until the time of Closing. Upon the completion of the Transaction at Closing, the Vendor shall yield up vacant possession of the Purchased Assets to the Purchaser and the Purchaser shall take possession of the Purchased Assets where situate. Title to the Purchased Assets shall not pass to the Purchaser until the completion of the Transaction and the Receiver’s Certificate has been delivered to the Purchaser. The Vendor shall be entitled, but shall not be obligated, to remove from the Buildings any books, records or documents situate in the Buildings which does not form part of the Purchased Assets provided that if any such books, records or documents are left at the Real Property at Closing the Purchaser may destroy or dispose of same at its sole option without any liability to the Purchaser. Any original Books and Records of the Debtors which remain on the Lands at Closing shall be retained by the Purchaser and made available to the Vendor for inspection on not less than two (2) Business Days prior written notice, for a period of two (2) years after the Date of Closing or such longer period as may be required by applicable law.

## 21. **NOTICE**

Any notice given hereunder shall be in writing and delivered or communicated by facsimile or electronic transmission to:

in the case of the Purchaser to:

1979119 Ontario Inc.  
110 Cumberland Street, Suite 505  
Toronto, Ontario  
M5R 3V5

Attention: Adolph Zarovinsky  
Tel: 416-726-3518  
Email: azar92809@yahoo.com

and a copy to the Purchaser’s Solicitors to:

Fasken Martineau DuMoulin LLP

333 Bay Street, Suite 2400  
Toronto, Ontario  
M5H 2T6

Attention: Barbara Miller  
Tel: 416-865-4410  
Email: bmillier@fasken.com

and in the case of the Vendor to:

msi Spergel Inc., in its Capacity as  
Court-Appointed Receiver of TamTan Inc.  
200-505 Consumers Road  
Toronto, ON M2J 4V8

Attention: Philip H. Gennis  
Email: pgennis@spergel.ca  
Tel. & Telecopier: (416) 498-4325

with a copy to the Vendor's Solicitors at:

Chaitons LLP  
5000 Yonge Street, 10<sup>th</sup> Floor  
Toronto, ON M2N 7E9

Attention: Sam Rappos  
Email: samr@chaitons.com  
Tel: 416-218-1137  
Telecopier: 416-218-1837

Such notice shall be deemed to have been delivered upon delivery or communicated upon transmission unless such notice is delivered or transmitted outside of usual business hours, in which event the notice shall be deemed to have been delivered or transmitted on the next Business Day. A party may change its address and/or telecopier machine number by providing notice in accordance with this Section 21.

## 22. **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 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 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.

23. **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.

24. **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.

25. **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. Each of the parties agrees that all provisions of this Agreement, and all provisions of any and all documents and security delivered in connection herewith, shall not merge and except where otherwise expressly stipulated herein, shall survive the closing of the Transaction contemplated by this Agreement.

26. **CUMULATIVE REMEDIES**

No remedy conferred upon or reserved to one or both of the Parties 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.

27. **INTERPRETATION**

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

28. **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.

29. **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.

30. **CANADIAN FUNDS**

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

31. **TENDER**

Any tender of notices, documents and/or monies hereunder may be made upon the Vendor or the Purchaser or their respective solicitors. Monies may be tendered by a negotiable cheque certified by a Canadian chartered bank or by an official bank draft drawn upon one of Canada's five largest chartered banks.

32. **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 its due diligence inquiries and 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; or
- (d) to comply with laws requiring disclosure.

In the event that the Transaction 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. In the event that the Transaction is completed the Vendor and its agents, advisors and authorized representatives shall thereafter maintain in strict confidence all information in the Vendor's possession or control regarding the Purchased Assets except as may be required to comply with laws requiring disclosure or its obligation under the Receivership Order.

33. **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.

34. **DOCUMENTATION PREPARATION AND REGISTRATION**

The Purchaser shall prepare or cause to be prepared the land transfer tax affidavit to be attached to the Application for Vesting Order. Each of the Parties shall deliver draft documentation to the other not less than five (5) Business Days prior to Closing. Except as otherwise expressly provided in this Agreement, all such documentation shall be in form and have substance satisfactory to the Vendor and the Purchaser, acting reasonably. The Purchaser shall be responsible for and pay all registration costs incurred in connection with the Transaction. 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.

35. **LAND TRANSFER TAXES AND SALES TAXES**

The Purchaser shall pay on or prior to Closing all HST and land transfer taxes (as required pursuant to the *Land Transfer Tax Act* (Ontario)).

36. **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 and each of the parties irrevocably attains to the Courts of the Province of Ontario.

37. **ASSIGNMENT**

The Vendor shall not assign part or all of its interest under this Agreement without the prior written consent of the Purchaser or approval of the Court. The Purchaser shall not assign part or all of its interest under this Agreement without the prior written consent of the Vendor or approval of the Court.

38. **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 Date of Closing.

39. **VENDOR'S CAPACITY**

It is acknowledged by the Purchaser that the Vendor is entering into this Agreement solely in its capacity as Court-appointed receiver of the Purchased Assets pursuant to the Receivership Order and that the Vendor shall have no personal or corporate liability under or as a result of this Agreement. Any claim against the Vendor shall be limited to and only enforceable against the property and assets then held by or available to it in its capacity as receiver of the Debtors and the Purchased Assets, 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.

40. **FURTHER ASSURANCES**

Each of the parties shall promptly do, make, execute, deliver, or cause to be done, made, executed or delivered, all such further acts, documents and things as the other Parties hereto may reasonably require from time to time after Closing at the expense of the requesting Party for the purpose of giving effect to this Agreement and shall use reasonable efforts and take all such steps as may be reasonably within its power to implement to their full extent the provisions of this Agreement. Provided that upon the discharge by the court of the Vendor as receiver, the Vendor's obligations under this paragraph shall be at an end and neither the Vendor nor msi Spergel Inc. shall have any continuing obligation under this paragraph.

41. **WAIVER, AMENDMENT**

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any

provision of this Agreement shall constitute a waiver of any other provision, nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

42. **SUCCESSORS AND ASSIGNS**

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

43. **COUNTERPARTS**

This Agreement may be executed in any number of original counterparts, with the same effect as if all the Parties had signed the same document, and will become effective when one or more counterparts have been signed by all of the Parties and delivered to each of the other Parties. All counterparts will be construed together and evidence only one agreement, which, notwithstanding the dates of execution of any counterparts, will be deemed to be dated the reference date set out above and accepted on the date of the last signature, and only one of which need be produced for any purpose.

44. **TIME FOR ACCEPTANCE**

The offer to purchase comprising this Agreement shall be irrevocable by the Purchaser and open for acceptance by the Vendor until 5:00 o'clock p.m. on the 2nd day of March, 2020, after which time, if not accepted and notice of such acceptance communicated to the Purchaser, then the said offer to purchase shall be null and void and of no further force and effect. This Agreement may be accepted by giving a copy thereof to the Purchaser with the Vendor's acceptance endorsed thereon personally or by facsimile or other electronic transmission. If so accepted prior to the expiration hereof, this Agreement shall constitute a binding contract between the Parties to purchase and sell the Purchased Assets on the terms and conditions set forth herein and is not subject to any conditions precedent.

44. **CONDITION TO AGREEMENT**

The obligation of the Purchaser to proceed with this Agreement is conditional upon the Purchaser entering into the EZ Foods Equipment Purchase Agreement, on terms satisfactory to the Purchaser, on or before 5:00 o'clock p.m. on the 2nd day of March, 2020, and if this condition is not satisfied within such period of time, the Purchaser may, in its absolute and unfettered discretion, terminate this Agreement by written notice to the Vendor without any penalty or liability whatsoever to the Purchaser, and the Deposit and interest thereon shall be returned to the Purchaser forthwith and without deduction, and each of the Vendor and the Purchaser shall be released from all other obligations hereunder.

**DATED** at Toronto, Ontario as of the date first mentioned above.



Forest Ridge Inc.

By: Name: Adolph ZarovinskyTitle: 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** at Toronto, Ontario this 21<sup>st</sup> day of February, 2020.

msi Spergel Inc., in its capacity as Court-Appointed Receiver of the assets, undertakings and properties of TAMTAN INC., and **1308963 ONTARIO LIMITED** (o/a EZ Food Group) and not in its personal or corporate capacity and without personal or corporate liability

By: Name: Mukul Manchanda, CPA, CIRP, LITTitle: Senior Principal

I have authority to bind the Corporation.

### **Schedule "A" – LEGAL DESCRIPTION**

PIN 06054-0805(LT) PCL BLK 0-1 SECT M1919 PTS BLKS 9, 10 ON PLAN M1995 AND PT BLK O, BEING A RESERVE ON PLAN M1919; PTS 19 TO 21, 23 TO 28, 49 TO 53, 55 TO 58, 62, 67 & 68 66R15458; TOGETHER WITH EASE AND ROW OVER PTS 36, 42, 43, 47 66R15458 AS IN C531411 TOGETHER WITH EASE OVER PTS 29, 36 TO 38, 40 TO 46, 47, 48, 54, 63, 64 & 65 AS IN C531411; SUBJ TO EASE OVER PT 49, 50, 53, 55, 56 and 58 66R15458 AS IN C617313 SUBJ TO ROW OVER PTS 49 TO 51, 55 and 56 66R15458 AS IN C617313 SUBJ TO EASE AND RGT OVER 25 TO 27 and 49 66R15458 AS IN C531411 SUBJ TO RGT AS IN A928321 SCARBOROUGH.

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

1. The reservations, limitations, provisos, conditions, restrictions and exceptions expressed in the letters patent or grant from the Crown and all statutory exceptions to title;
2. The provisions of governing municipal by-laws;
3. Municipal taxes, liens, charges, including hydro and water charges, rates and assessments accruing from day to day and not yet due and payable provided they are adjusted for in the statement of adjustments;
4. Any defects or minor encroachments which might be revealed by an up to date survey of the Lands;
5. Any right of expropriation conferred upon, reserved to or vesting in Her Majesty the Queen in Right of Canada and Ontario;
6. Any registered restrictions or covenants that run with the Lands provided that same have been complied with in all material respects;
7. Any easements, rights of way or right of re-entry in favour of a developer, not materially or adversely impairing the present use of the Lands;
8. Any agreements with municipal, utilities or public authorities provided that same have been complied with in all material respects;
9. The Existing Active Permits; and
10. The following instruments registered on title to the Lands in the Toronto (#66) Land Registry Office:

Registration Number	Date	Instrument Type
A928322	June 23, 1981	NOTICE AGREEMENT
66R14547	January 17, 1986	PLAN REFERENCE
66R14854	December 8, 1986	PLAN REFERENCE
C344173	December 19, 1986	NOTICE AGREEMENT
C531412	December 22, 1988	NOTICE
C616744	December 12, 1989	NOTICE AGREEMENT
C531411	December 22, 1988	EASEMENT
C617313	December 14, 1989	EASEMENT

## Schedule "C" – BUILDING REPORT



**Toronto Building**  
**William M.** Chief Building Official and  
**Johnston, P.** Executive Director  
**Eng.,**

Toronto Building

Customer Service, North District  
5100 Yonge St.  
Toronto, ON  
M2N 5V7  
Our ref#: 20-108522

Monday, January 20, 2020

YOUR FILE: 302553.00016

FASKEN MARTINEAU DUMOULIN LLP  
C/O PAT CHANDLER  
333 BAY ST SUITE 2400 PO BOX 20  
TORONTO ON M5H 2T6

Re: 1405 MORNINGSIDE AVE, TORONTO, formerly of Scarborough  
Legal Description: PLAN M1995 PT BLK 9, 10 PLAN M1919 PT BLK O RP66R, 15458  
PART 19 TO 21,23 TO 28 49 TO 53, 55 TO 58, 62 67 68  
Roll Number: 1901127100003000000

We acknowledge receipt of your letter dated Friday, January 17, 2020. This reply is based on the information available from our records.

### **ZONING INFORMATION**

The property is subject to Scarborough Zoning By-law number 24982 and is zoned M Industrial Zone. The property is also subject to site exception number(s) 202; and is also subject to Toronto Zoning By-law 569-2013, as amended and is zoned E 0.7. The City of Toronto passed a new comprehensive Zoning By-law, no. 569-2013, on May 9, 2013. Currently, and until appeals of the new by-law are resolved, all of the more restrictive requirements from the old by-laws and the new by-law are in effect. If you provided a survey of the property, please be advised that the City is no longer reviewing surveys for zoning compliance.

### **ACTIVE FILES**

In reviewing our current files we find 6 active permits, no active site inspections, no active permit applications, no active Committee of Adjustment applications, no active notices of violation, no active orders of violation and no active matters of investigations.

### **1405 MORNINGSIDE AVE**

- \* A Building Permit 08 113054 HVA 00 MS regarding:  
Industrial. Work proposed: Building Permit Related(MS). For further information you may contact the following inspector(s) between 8:30am and 9:30am, Monday to Friday.
  - Michael Carolan at (416) 396-7725 re: MS HVAC Inspection Pt3

- \* A Building Permit 08 113054 BLD 00 BA regarding:

Industrial. Work proposed: Interior Alterations. For further information you may contact the following inspector(s) between 8:30am and 9:30am, Monday to Friday.

- George Papapetrou at (416) 396-5610 re: BA Building Inspection Pt3

- \* A Building Permit 10 231473 BLD 00 BA regarding:

Warehouse. Work proposed: Interior Alterations. For further information you may contact the following inspector(s) between 8:30am and 9:30am, Monday to Friday.

- George Papapetrou at (416) 396-5610 re: BA Building Inspection Pt3

- \* A Building Permit 10 192357 DST 00 DS regarding:

Industrial Processing Plant. Work proposed: Exterior Tank & Support. For further information you may contact the following inspector(s) between 8:30am and 9:30am, Monday to Friday.

- George Papapetrou at (416) 396-5610 re: DS Building Inspection Pt3

- \* A Building Permit 08 113054 PLB 00 PS regarding:

Industrial. Work proposed: Building Permit Related(PS). For further information you may contact the following inspector(s) between 8:30am and 9:30am, Monday to Friday.

- David Eichelmann at (416) 396-4154 re: PS Plumbing Inspection Pt3

- \* A Building Permit 08 113054 HVA 01 MS regarding:

Industrial. Work proposed: Building Permit Related(MS). For further information you may contact the following inspector(s) between 8:30am and 9:30am, Monday to Friday.

### **HISTORY**

#### **1405 MORNINGSIDE AVE**

The Committee of Adjustment application number B016/07SC regarding: Work proposed: Lot Addition. This application was on Tuesday, June 05, 2007. For further information and copies of the Decision Notice, please contact the Committee of Adjustment at (416) 397-5330.

The Committee of Adjustment application number B060/89SC regarding: Work proposed: . This application was Approved on Thursday, November 09, 1989. For further information and copies of the Decision Notice, please contact the Committee of Adjustment at (416) 397-5330.



**For Residential Property Owners only Re: Front Yard Parking**

Front Yard Parking permits are not transferable. Each new owner of the property must apply to the City for his/her own permit, which, if granted will include the payment of certain fees. It is the responsibility of the new owner to ensure that the existing front yard parking pad was legally installed. Please contact Transportation Services by dialling 311 or from outside the City of Toronto (416) 392-CITY(2489) to determine the legal status and validity of any parking pads that may exist within the front yard and adjoining boulevards of the subject property.

The foregoing information pertains only to matters that are within the jurisdiction or related to the activities of the City Planning, Toronto Building and Municipal Licensing and Standards Divisions and is given for convenience purposes only. We recommend that you satisfy yourself as to whether the property and the existing or proposed use thereof is or would be in conformity with all applicable laws and regulations of the City. Copies of Zoning by-laws may be viewed or purchased from Toronto Building at (416) 397-5330. For general zoning information, please visit the Toronto Building Customer Service counter in the district the property is located in. For other matters, please contact the appropriate department, agency or call 311. From outside the City of Toronto call (416) 392-CITY(2489).

If you require further clarification, please contact Lisa Ricci at (416) 395-7529

Yours truly,



Tad McBoyle  
Manager, Customer Service  
/lr

# **APPENDIX “G”**



**In the matter of the receivership of**  
**TAMTAN INC.**  
Receiver's Statement of Receipts and Disbursements  
As at February 29, 2020

**RECEIPTS**

1. Miscellaneous		
HST collected	\$	552.22
Interest allocation		135.64
Rental Income		4,247.78
Receiver Borrowing from Secured Creditor	<u>150,000.00</u>	\$ 154,935.64

**TOTAL RECEIPTS** **154,935.64**

**DISBURSEMENTS**

2. Fees Paid		
To official receiver	<u>70.00</u>	70.00
3. Premium		
Insurance	<u>36,631.44</u>	36,631.44
4. Legal fees and legal services costs (taxed)		
HST on legal fees	<u>661.47</u>	661.47
5. Federal and Provincial taxes		
HST paid on disbursements exclusive of fees	5,188.45	
HST on Receiver's fees	<u>7,333.63</u>	12,522.08
6. Miscellaneous		
Appraisal fees	6,375.00	
Travel	296.33	
Other misc disbursements	137.37	
Change of locks	640.00	
Security	1,526.98	
Utilities	12,077.61	
Redirection of mail	163.25	
Repairs & maintenance	7,235.30	
Legal fees/disbursements	5,164.65	
Receiver's fees and costs	56,412.50	
Ascend License Fee	275.00	
Environmental consultants fees	13,000.00	
HST on Ascend License Fee	<u>35.75</u>	103,339.74

**TOTAL DISBURSEMENTS** **153,224.73**

Net Receipts over Disbursements \$ 1,710.91

**In the matter of the receivership of**  
**1308963 ONTARIO LIMITED o/a EZ FOOD GROUP**  
Receiver's Statement of Receipts and Disbursements  
As at February 29, 2020

**RECEIPTS**

1. Asset Realization		
Machinery & equipment	\$ 19,000.00	\$ 19,000.00
2. Miscellaneous		
Interest allocation	22.36	
Receiver Borrowing from Secured Creditor	30,000.00	30,022.36
<b>TOTAL RECEIPTS</b>		<b>49,022.36</b>

**DISBURSEMENTS**

3. Fees Paid		
To official receiver	70.00	70.00
4. Premium		
Insurance	1,825.00	1,825.00
5. Federal and Provincial taxes		
HST paid on disbursements exclusive of fees	736.22	
HST on Receiver's Fees	1,982.18	2,718.40
6. Miscellaneous		
Appraisal fees	5,500.00	
Redirection of mail	163.25	
Receiver's fees and costs	15,247.50	
Ascend License Fee	275.00	
HST on Ascend License Fee	35.75	21,221.50
<b>TOTAL DISBURSEMENTS</b>		<b>25,834.90</b>
Net Receipts over Disbursements	\$	23,187.46

# **APPENDIX ‘H’**

## RECEIVER CERTIFICATE

CERTIFICATE NO. 3

AMOUNT \$ 30,000.00

1. THIS IS TO CERTIFY that msi Spergel Inc., the receiver (the “**Receiver**”) of the assets, undertakings and properties TamTan Inc. and 1308963 Ontario Limited (o/a EZ Food Group) acquired for, or used in relation to a business 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 16th day of October, 2019 (the “**Order**”) made in an action having Court file number CV-19-00628569-00CL has received as such Receiver from the holder of this certificate (the “**Lender**”) the principal sum of \$30,000.00, being part of the total principal sum of \$200,000 which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded monthly not in advance on the 3rd day of each month after the date hereof at a notional rate per annum equal to the rate of 2.75 per cent above the Roynat Floating Base Rate 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.

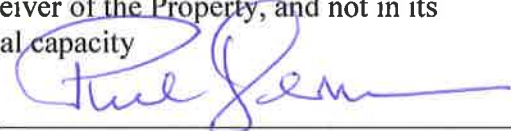
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

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 2nd day of January, 2020.

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

Per:



Name: Philip H. Gennis

Title: Senior Principal

# **APPENDIX “I”**

## RECEIVER CERTIFICATE

CERTIFICATE NO. 1

AMOUNT \$ 50,000.00

1. THIS IS TO CERTIFY that msi Spergel Inc., the receiver (the “**Receiver**”) of the assets, undertakings and properties TamTan Inc. and 1308963 Ontario Limited (o/a EZ Food Group) acquired for, or used in relation to a business 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 16th day of October, 2019 (the “**Order**”) made in an action having Court file number CV-19-00628569-00CL has received as such Receiver from the holder of this certificate (the “**Lender**”) the principal sum of \$50,000.00, being part of the total principal sum of \$200,000 which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded monthly not in advance on the 19<sup>th</sup> day of each month after the date hereof at a notional rate per annum equal to the rate of 2.75 per cent above the Roynat Floating Base Rate from time to time.

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

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

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

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

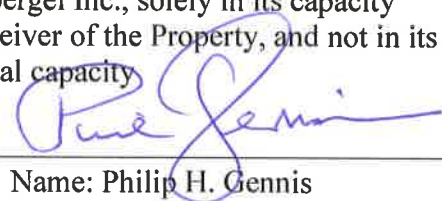
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

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

DATED the 19th day of November, 2019.

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

Per:



Name: Philip H. Gennis

Title: Senior Principal



## RECEIVER CERTIFICATE

CERTIFICATE NO. 2

AMOUNT \$ 100,000.00

1. THIS IS TO CERTIFY that msi Spergel Inc., the receiver (the “**Receiver**”) of the assets, undertakings and properties TamTan Inc. and 1308963 Ontario Limited (o/a EZ Food Group) acquired for, or used in relation to a business 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 16th day of October, 2019 (the “**Order**”) made in an action having Court file number CV-19-00628569-00CL has received as such Receiver from the holder of this certificate (the “**Lender**”) the principal sum of \$100,000.00, being part of the total principal sum of \$200,000 which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded monthly not in advance on the 3rd day of each month after the date hereof at a notional rate per annum equal to the rate of 2.75 per cent above the Roynat Floating Base Rate 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.

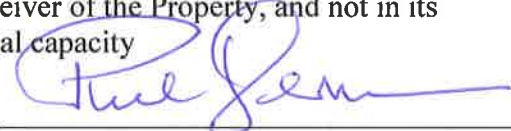
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

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 2nd day of January, 2020.

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

Per:



Name: Philip H. Gennis

Title: Senior Principal

# **TAB 3**

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

THE HONOURABLE	)	FRIDAY, THE 13th
	)	
JUSTICE	)	DAY OF MARCH, 2020

B E T W E E N:

**ROYNAT INC.**

Applicant

- and -

**TAMTAN INC. and 1308963 ONTARIO LIMITED (o/a EZ FOOD GROUP)**

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 TamTan Inc. (the “**Real Property Debtor**”) and 1308963 Ontario Limited (o/a EZ Food Group) (the “**Equipment Debtor**”, and together with the Real Property Debtor, the “**Debtors**”) for an order, *inter alia*, approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Receiver and Forest Ridge Inc. (the “**Purchaser**”) dated February 27, 2020, a redacted copy of which is appended to the Second Report of the Receiver dated March 3, 2020 (the “**Second Report**”), and vesting in the Purchaser the Real Property Debtor’s right, title and interest in and to the assets described in the Sale Agreement, including, without limitation, the real property described in **Schedule “A”** hereto (the “**Real**

**Property**”, and collectively referred to herein with the other purchased assets as the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Second Report and the appendices thereto, and on hearing the submissions of counsel for the Receiver and counsel for the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the affidavit of <@> sworn <@>, filed:

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.

2. **THIS COURT ORDERS AND DECLARES** that the Transaction be and is hereby approved, and the execution of the Sale Agreement by the Receiver be and is hereby authorized, ratified and approved, with such minor amendments as the Receiver and the Purchaser may agree to in writing. 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, or as it may direct in writing.

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 “B”** hereto (the “**Receiver's Certificate**”), all of the Real Property Debtor’s right, title and interest in and to the Purchased Assets shall vest absolutely in the Purchaser, or whomever it may direct in writing, 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 (statutory or otherwise), executions, levies, charges, pledges, leases, offers to lease, title retention agreements or arrangements, restrictions on use, development or similar agreements, title defects, Work Orders (as defined in the Sale Agreement), options, adverse claims, servitudes, encroachments, prior claims, assignments, liabilities (direct, indirect, absolute or contingent), obligations, judgments, writs of seizure, notices of sale, contractual rights, rights of first refusal, or any other right or interest of any nature or any other financial or monetary claims or any other arrangement or condition, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”), including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice McEwen dated October 16, 2019; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), the *Land Titles Act* (Ontario), or any other personal or real property registry system; and (iii) those Claims listed on **Schedule “C”** hereto (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances listed on **Schedule “D”**) and, for greater certainty, this Court orders that all of the Claims and 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 appropriate Land Titles Division of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchaser, or whomever the Purchaser may direct in writing, as the owner of the Real Property in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Encumbrances 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 AND DECLARES** that no current or former tenants of the Real Property shall be entitled to withhold rental payments, set off any claim with respect to any over-payment of rent (including, without limitation, overpayment of additional rent), or claim remedies as against the Purchaser with respect to any sums that may be owing to them pursuant to their respective leases, if any, for any period prior to the Date of Closing (as defined in the Sale Agreement) of the Transaction (collectively, the "**Tenant Claims**") and that the Tenant Claims shall be included in as Claims subject to the provisions of paragraph 3 of this Order.

8. **THIS COURT ORDERS** that, notwithstanding:

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

the vesting of the Purchased Assets in the Purchaser, or as it may direct in writing, pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a 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 HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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### **Schedule A – Legal Description of the Real Property**

PIN 06054-0805(LT) PCL BLK 0-1 SECT M1919 PTS BLKS 9, 10 ON PLAN M1995 AND PT BLK O, BEING A RESERVE ON PLAN M1919; PTS 19 TO 21, 23 TO 28, 49 TO 53, 55 TO 58, 62, 67 & 68 66R15458; TOGETHER WITH EASE AND ROW OVER PTS 36, 42, 43, 47 66R15458 AS IN C531411 TOGETHER WITH EASE OVER PTS 29, 36 TO 38, 40 TO 46, 47, 48, 54, 63, 64 & 65 AS IN C531411; SUBJ TO EASE OVER PT 49, 50, 53, 55, 56 and 58 66R15458 AS IN C617313 SUBJ TO ROW OVER PTS 49 TO 51, 55 and 56 66R15458 AS IN C617313 SUBJ TO EASE AND RGT OVER 25 TO 27 and 49 66R15458 AS IN C531411 SUBJ TO RGT AS IN A928321 SCARBOROUGH.

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

Court File No. CV-19-00628569-00CL

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

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

**ROYNAT INC.**

Applicant

- and -

**TAMTAN INC. and 1308963 ONTARIO LIMITED (o/a EZ FOOD GROUP)**

Respondents

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice McEwen of the Ontario Superior Court of Justice (the “**Court**”) dated October 16, 2019, msi Spergel Inc. was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of TamTan Inc. (the “**Real Property Debtor**”) and 1308963 Ontario Limited (o/a EZ Food Group) (the “**Equipment Debtor**”, and together with the Real Property Debtor, the “**Debtors**”).

B. Pursuant to an Order of the Court dated March 13, 2020, the Court approved the agreement of purchase and sale made as of February 27, 2020 (the “**Sale Agreement**”) between the Receiver and Forest Ridge Inc. (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Real Property Debtor’s right, title and interest in and to the assets described in the Sale Agreement (the “**Purchased Assets**”), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate

confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in sections 12 and 13 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser, as applicable; 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 Date of Closing pursuant to the Sale Agreement;
2. The conditions to Closing as set out in sections 12 and 13 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser, as applicable; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_, 2020

**msi Spergel Inc., in its capacity as Receiver of  
the undertaking, property and assets of  
TamTan Inc. and 1308963 Ontario Limited  
(o/a EZ Food Group), and not in its personal  
capacity**

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

Name:

Title:

## Schedule C – Encumbrances

a) **Instruments to be deleted from PIN No. 06054-0805(LT)**

Reg. No.	Registration Date	Instrument Type	Amount	Parties From	Parties To
AT2353616	April 16, 2010	Charge	\$2,750,000.00	TamTan Inc.	Roynat Inc.
AT2353638	April 16, 2010	Notice of Assignment of Rents General		TamTan Inc.	Roynat Inc.
AT3706673	October 3, 2014	Charge	\$3,000,000	TamTan Inc.	Roynat Inc.
AT3706684	October 3, 2014	Notice of Assignment of Rents General		TamTan Inc.	Roynat Inc.
AT5077163	February 14, 2019	Application for Restrictions Based on Court Order			Attorney General of Canada - Re: February 12, 2019 Restraint and Management Order of Justice Joëlle Roy in Court of Québec File No. 500-38-025571-190

b) **Other Encumbrances**

(1) **PPSA**

	File No./Registration No.	Current Debtor	Current Secured Party	Current Collateral Classification	Current General Collateral Description and other Particulars
1.	660382884/ 20100408 0835 1862 9824 20170720 1933 1531 2764 20200120 1730 1590 5128	TamTan Inc.	Roynat Inc.	Inventory, Equipment, Accounts, Other, Motor Vehicle Included	<b>Expiry Date: April 8, 2023</b>  An amendment was registered on July 20, 2017 to amend the address of the secured party.  An amendment was registered on January 20, 2020 to renew the registration for an additional three year term.
2.	698752791/ 20140808 1314 1590 7986 20170720 1933 1531 2759	TamTan Inc.	Roynat Inc.	Inventory, Equipment, Accounts, Other, Motor Vehicle Included	<b>Expiry Date: August 8, 2024</b>  An amendment was registered on July 20, 2017 to amend the

	File No./Registration No.	Current Debtor	Current Secured Party	Current Collateral Classification	Current General Collateral Description and other Particulars
					address of the secured party.
3.	698752845/ 20140808 1314 1590 7987 20170720 1933 1531 2761	TamTan Inc.	Roynat Inc.	Accounts, Other	<b>Expiry Date: August 8, 2024</b>  <u>General Collateral Description:</u> General assignment of rents and leases with regard to 1405 Morningside Avenue, Scarborough, Ontario.  An amendment was registered on July 20, 2017 to amend the address of the secured party.

## (2) Writs of Execution

Execution No.	Creditor Name
19-0004142	Argil Property Tax Services Paralegal Professional Corporation

## (3) Litigation/Judgments

	Case Number	Case Opened Date	Case Status	Plaintiff/Appellant	Defendant/Respondent	Case Type	Amount	Last Event Result Information
1.	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

- (4) All outstanding municipal taxes, fines, interest and penalties.
- (5) Restraint Order and Management Order of Justice Joëlle Roy dated February 12, 2019 in the Court of Quebec (Criminal and Penal Division) proceedings having Court File No. 500-38-025571-190.
- (6) Restraint Order and Management Order of Justice Joëlle Roy dated February 12, 2019 in the Court of Quebec (Criminal and Penal Division) proceedings having Court File No. 500-38-025576-199.
- (7) Restraint Order and Management Order of Justice Joëlle Roy dated February 8, 2019 in the Court of Quebec (Criminal and Penal Division) proceedings having Court File No. 500-38-025575-191.
- (8) Restraint Order and Management Order of Justice Joëlle Roy dated February 8, 2019 in the Court of Quebec (Criminal and Penal Division) proceedings having Court File No. 500-38-025558-197.
- (9) Restraint Order and Management Order of Justice Joëlle Roy dated February 8, 2019 in the Court of Quebec (Criminal and Penal Division) proceedings having Court File No. 500-38-025557-199.
- (10) Restraint Order and Management Order of Justice Joëlle Roy dated February \_\_, 2019 in the Court of Quebec (Criminal and Penal Division) proceedings having Court File No. 500-38-025559-195.

**Schedule D – Permitted Encumbrances  
(unaffected by the Vesting Order)**

1. The reservations, limitations, provisos, conditions, restrictions and exceptions expressed in the letters patent or grant from the Crown and all statutory exceptions to title;
2. The provisions of governing municipal by-laws;
3. Municipal taxes, liens, charges, including hydro and water charges, rates and assessments accruing from day to day and not yet due and payable provided they are adjusted for in the statement of adjustments;
4. Any defects or minor encroachments which might be revealed by an up to date survey of the Lands;
5. Any right of expropriation conferred upon, reserved to or vesting in Her Majesty the Queen in Right of Canada and Ontario;
6. Any registered restrictions or covenants that run with the Lands provided that same have been complied with in all material respects;
7. Any easements, rights of way or right of re-entry in favour of a developer, not materially or adversely impairing the present use of the Lands;
8. Any agreements with municipal, utilities or public authorities provided that same have been complied with in all material respects;
9. The Existing Active Permits; and
10. The following instruments registered on title to the Lands in the Toronto (#66) Land Registry Office:

Registration Number	Date	Instrument Type
A928322	June 23, 1981	NOTICE
66R14547	January 17, 1986	AGREEMENT
66R14854	December 8, 1986	PLAN REFERENCE
C344173	December 19, 1986	PLAN REFERENCE
		NOTICE
		AGREEMENT
C531412	December 22, 1988	NOTICE
C616744	December 12, 1989	NOTICE
		AGREEMENT
C531411	December 22, 1988	EASEMENT
C617313	December 14, 1989	EASEMENT

## **TAB 4**

Court File No. ~~\_\_\_\_\_~~ CV-19-00628569-00CL

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

THE HONOURABLE ) ~~WEEKDAY~~ FRIDAY, THE # 13th  
 )  
JUSTICE ) DAY OF ~~MONTH~~ MARCH, ~~20YR~~ 2020

B E T W E E N:

**PLAINTIFF**

Plaintiff

**ROYNAT INC.**

Applicant

- and ~~\_\_\_~~

**DEFENDANT**

Defendant

**TAMTAN INC. and 1308963 ONTARIO LIMITED (o/a EZ FOOD GROUP)**

Respondents

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by ~~[RECEIVER'S NAME]~~ msi Spergel Inc. in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of ~~[DEBTOR] (the "Debtor") for an order~~ TamTan Inc. (the "Real Property Debtor") and 1308963 Ontario Limited (o/a EZ Food Group) (the "Equipment Debtor", and together with the Real Property Debtor, the "Debtors") for an order, *inter alia*, approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement")



between the Receiver and ~~[NAME-OF-PURCHASER]~~ Forest Ridge Inc. (the "Purchaser") dated ~~[DATE]~~ and February 27, 2020, a redacted copy of which is appended to the Second Report of the Receiver dated ~~[DATE]~~ March 3, 2020 (the "Second Report"), and vesting in the Purchaser the Real Property Debtor's right, title and interest in and to the assets described in the Sale Agreement ~~(the "Purchased Assets", including, without limitation, the real property described in Schedule "A" hereto (the "Real Property", and collectively referred to herein with the other purchased assets as the "Purchased Assets"))~~, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report and the appendices thereto, and on hearing the submissions of counsel for the Receiver, ~~[NAMES-OF-OTHER-PARTIES-APPEARING]~~ and counsel for the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ~~[NAME]~~ <@> sworn ~~[DATE]~~ <@>, filed<sup>1</sup>:

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.

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

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

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

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

ratified and approved, with such minor amendments as the Receiver ~~may deem necessary~~ and the Purchaser may agree to in writing. 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, or as it may direct in writing.

3. ~~2.~~ **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule A** ~~"B"~~ hereto (the "Receiver's Certificate"), all of the Real Property Debtor's right, title and interest in and to the Purchased Assets ~~described in the Sale Agreement [and listed on Schedule B hereto]~~<sup>4</sup> shall vest absolutely in the Purchaser, or whomever it may direct in writing, 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 (statutory or otherwise), executions, levies, charges, ~~or pledges, leases, offers to lease, title retention agreements or arrangements, restrictions on use, development or similar agreements, title defects, Work Orders (as defined in the Sale Agreement), options, adverse claims, servitudes, encroachments, prior claims, assignments, liabilities (direct, indirect, absolute or contingent), obligations, judgments, writs of seizure, notices of sale, contractual rights, rights of first refusal, or any other right or interest of any nature or any~~ other financial or monetary claims or any other arrangement or condition, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims")<sup>5</sup>, including, without limiting the

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

<sup>5</sup> ~~The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the~~

generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice ~~[NAME]~~ McEwen dated ~~[DATE]~~ October 16, 2019; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), the Land Titles Act (Ontario), or any other personal or real property registry system; and (iii) those Claims listed on **Schedule “C”** hereto (all of which are collectively referred to as the **“Encumbrances”**, which term shall not include the permitted encumbrances, ~~easements and restrictive covenants~~ listed on **Schedule “D”**) and, for greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

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

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~~Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.~~

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

5. ~~4. THIS COURT ORDERS~~ THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds<sup>7</sup> from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale<sup>8</sup>, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

7. ~~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.~~ AND DECLARES that no current or former tenants of the Real Property shall be entitled to withhold rental payments, set off any claim with respect to any over-payment of rent (including, without limitation, overpayment of additional rent), or claim remedies as against the Purchaser with respect to any sums that may be owing to them pursuant to

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

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

their respective leases, if any, for any period prior to the Date of Closing (as defined in the Sale Agreement) of the Transaction (collectively, the “**Tenant Claims**”) and that the Tenant Claims shall be included in as Claims subject to the provisions of paragraph 3 of this Order.

8. ~~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~~Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the ~~Debtor~~Debtors;

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

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**Schedule A – Legal Description of the Real Property**

PIN 06054-0805(LT) PCL BLK 0-1 SECT M1919 PTS BLKS 9, 10 ON PLAN M1995 AND PT BLK O, BEING A RESERVE ON PLAN M1919; PTS 19 TO 21, 23 TO 28, 49 TO 53, 55 TO 58, 62, 67 & 68 66R15458; TOGETHER WITH EASE AND ROW OVER PTS 36, 42, 43, 47 66R15458 AS IN C531411 TOGETHER WITH EASE OVER PTS 29, 36 TO 38, 40 TO 46, 47, 48, 54, 63, 64 & 65 AS IN C531411; SUBJ TO EASE OVER PT 49, 50, 53, 55, 56 and 58 66R15458 AS IN C617313 SUBJ TO ROW OVER PTS 49 TO 51, 55 and 56 66R15458 AS IN C617313 SUBJ TO EASE AND RGT OVER 25 TO 27 and 49 66R15458 AS IN C531411 SUBJ TO RGT AS IN A928321 SCARBOROUGH.

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

Court File No. CV-19-00628569-00CL

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

B E T W E E N:

**PLAINTIFF**

**Plaintiff**

**ROYNAT INC.**

**Applicant**

- and -

**DEFENDANT**

**Defendant**

**TAMTAN INC. and 1308963 ONTARIO LIMITED (o/a EZ FOOD GROUP)**

**Respondents**

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~ Justice McEwen of the Ontario Superior Court of Justice (the **“Court”**) dated ~~[DATE OF ORDER]~~, ~~[NAME OF RECEIVER]~~ October 16, 2019, msi Spergel Inc. was appointed as the receiver (the **“Receiver”**) of the undertaking, property and assets of ~~[DEBTOR]~~ (the “Debtor TamTan Inc. (the “Real Property Debtor”) and 1308963 Ontario Limited (o/a EZ Food Group) (the “Equipment Debtor”, and together with the Real Property Debtor, the **“Debtors”**).



B. Pursuant to an Order of the Court dated ~~[DATE]~~March 13, 2020, the Court approved the agreement of purchase and sale made as of ~~[DATE OF AGREEMENT]~~February 27, 2020 (the "Sale Agreement") between the Receiver ~~[Debtor]~~ and ~~[NAME OF PURCHASER]~~ and Forest Ridge Inc. (the "Purchaser") and provided for the vesting in the Purchaser of the Real Property Debtor's right, title and interest in and to the assets described in the Sale Agreement (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~~sections 12 and 13 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser, as applicable; 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 Date of Closing~~Date~~ pursuant to the Sale Agreement;
2. The conditions to Closing as set out in ~~section~~sections 12 and 13 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser, as applicable; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ ~~[DATE]~~2020

~~{NAME OF RECEIVER}~~ msi Spergel Inc., in its capacity as Receiver of the undertaking, property and assets of ~~{DEBTOR}~~ TamTan Inc. and 1308963 Ontario Limited (o/a EZ Food Group), and not in its personal capacity

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

Name:

Title:

Schedule ~~B—Purchased Assets~~ C – Encumbrances~~Schedule C—Claims~~a) Instruments to be deleted and expunged from title to Real Property from PIN No. 06054-0805(LT)

<u>Reg. No.</u>	<u>Registration Date</u>	<u>Instrument Type</u>	<u>Amount</u>	<u>Parties From</u>	<u>Parties To</u>
<a href="#">AT2353616</a>	<a href="#">April 16, 2010</a>	<a href="#">Charge</a>	<a href="#">\$2,750,000.00</a>	<a href="#">TamTan Inc.</a>	<a href="#">Roynat Inc.</a>
<a href="#">AT2353638</a>	<a href="#">April 16, 2010</a>	<a href="#">Notice of Assignment of Rents General</a>		<a href="#">TamTan Inc.</a>	<a href="#">Roynat Inc.</a>
<a href="#">AT3706673</a>	<a href="#">October 3, 2014</a>	<a href="#">Charge</a>	<a href="#">\$3,000,000</a>	<a href="#">TamTan Inc.</a>	<a href="#">Roynat Inc.</a>
<a href="#">AT3706684</a>	<a href="#">October 3, 2014</a>	<a href="#">Notice of Assignment of Rents General</a>		<a href="#">TamTan Inc.</a>	<a href="#">Roynat Inc.</a>
<a href="#">AT5077163</a>	<a href="#">February 14, 2019</a>	<a href="#">Application for Restrictions Based on Court Order</a>			<a href="#">Attorney General of Canada - Re: February 12, 2019 Restraint and Management Order of Justice Joëlle Roy in Court of Québec File No. 500-38-025571-190</a>

b) Other Encumbrances(1) PPSA

<u>File No./Registration No.</u>	<u>Current Debtor</u>	<u>Current Secured Party</u>	<u>Current Collateral Classification</u>	<u>Current General Collateral Description and other Particulars</u>
<a href="#">660382884/</a> <a href="#">20100408 0835 1862 9824</a> <a href="#">20170720 1933 1531 2764</a> <a href="#">20200120 1730 1590 5128</a>	<a href="#">TamTan Inc.</a>	<a href="#">Roynat Inc.</a>	<a href="#">Inventory, Equipment, Accounts, Other, Motor Vehicle Included</a>	<a href="#">Expiry Date: April 8, 2023</a>  <a href="#">An amendment was registered</a>

<u>File No./Registration No.</u>	<u>Current Debtor</u>	<u>Current Secured Party</u>	<u>Current Collateral Classification</u>	<u>Current General Collateral Description and other Particulars</u>
				<a href="#">on July 20, 2017 to amend the address of the secured party.</a> <a href="#">An amendment was registered on January 20, 2020 to renew the registration for an additional three year term.</a>
<a href="#">698752791/20140808 1314 1590 7986</a> <a href="#">20170720 1933 1531 2759</a>	<a href="#">TamTan Inc.</a>	<a href="#">Roynat Inc.</a>	<a href="#">Inventory, Equipment, Accounts, Other, Motor Vehicle Included</a>	<b><a href="#">Expiry Date: August 8, 2024</a></b>  <a href="#">An amendment was registered on July 20, 2017 to amend the address of the secured party.</a>
<a href="#">698752845/20140808 1314 1590 7987</a> <a href="#">20170720 1933 1531 2761</a>	<a href="#">TamTan Inc.</a>	<a href="#">Roynat Inc.</a>	<a href="#">Accounts, Other</a>	<b><a href="#">Expiry Date: August 8, 2024</a></b>  General Collateral Description: <a href="#">General assignment of rents and leases with regard to 1405 Morningside Avenue, Scarborough, Ontario.</a>  <a href="#">An amendment was registered on July 20, 2017 to amend the address of the secured party.</a>

## (2) Writs of Execution

<u>Execution No.</u>	<u>Creditor Name</u>
19-0004142	<a href="#">Argil Property Tax Services Paralegal Professional Corporation</a>

## (3) Litigation/Judgments

	<u>Case Number</u>	<u>Case Opened Date</u>	<u>Case Status</u>	<u>Plaintiff/Appellant</u>	<u>Defendant/Respondent</u>	<u>Case Type</u>	<u>Amount</u>	<u>Last Event Result Information</u>
<u>1.</u>	<a href="#">N/A</a>	<a href="#">N/A</a>	<a href="#">N/A</a>	<a href="#">N/A</a>	<a href="#">N/A</a>	<a href="#">N/A</a>	<a href="#">N/A</a>	<a href="#">N/A</a>

(4) All outstanding municipal taxes, fines, interest and penalties.

(5) Restraint Order and Management Order of Justice Joëlle Roy dated February 12, 2019 in the Court of Quebec (Criminal and Penal Division) proceedings having Court File No. 500-38-025571-190.

(6) Restraint Order and Management Order of Justice Joëlle Roy dated February 12, 2019 in the Court of Quebec (Criminal and Penal Division) proceedings having Court File No. 500-38-025576-199.

(7) Restraint Order and Management Order of Justice Joëlle Roy dated February 8, 2019 in the Court of Quebec (Criminal and Penal Division) proceedings having Court File No. 500-38-025575-191.

- (8) Restraint Order and Management Order of Justice Joëlle Roy dated February 8, 2019 in the Court of Quebec (Criminal and Penal Division) proceedings having Court File No. 500-38-025558-197.
- (9) Restraint Order and Management Order of Justice Joëlle Roy dated February 8, 2019 in the Court of Quebec (Criminal and Penal Division) proceedings having Court File No. 500-38-025557-199.
- (10) Restraint Order and Management Order of Justice Joëlle Roy dated February \_\_\_\_, 2019 in the Court of Quebec (Criminal and Penal Division) proceedings having Court File No. 500-38-025559-195.

**Schedule D – Permitted Encumbrances, ~~Easements and Restrictive Covenants~~  
related to the Real Property  
(unaffected by the Vesting Order)  
(unaffected by the Vesting Order)**

1. The reservations, limitations, provisos, conditions, restrictions and exceptions expressed in the letters patent or grant from the Crown and all statutory exceptions to title;
2. The provisions of governing municipal by-laws;
3. Municipal taxes, liens, charges, including hydro and water charges, rates and assessments accruing from day to day and not yet due and payable provided they are adjusted for in the statement of adjustments;
4. Any defects or minor encroachments which might be revealed by an up to date survey of the Lands;
5. Any right of expropriation conferred upon, reserved to or vesting in Her Majesty the Queen in Right of Canada and Ontario;
6. Any registered restrictions or covenants that run with the Lands provided that same have been complied with in all material respects;
7. Any easements, rights of way or right of re-entry in favour of a developer, not materially or adversely impairing the present use of the Lands;
8. Any agreements with municipal, utilities or public authorities provided that same have been complied with in all material respects;
9. The Existing Active Permits; and
10. The following instruments registered on title to the Lands in the Toronto (#66) Land Registry Office:

<u>Registration Number</u>	<u>Date</u>	<u>Instrument Type</u>
<u>A928322</u>	<u>June 23, 1981</u>	<u>NOTICE</u>
<u>66R14547</u>	<u>January 17, 1986</u>	<u>AGREEMENT</u>
<u>66R14854</u>	<u>December 8, 1986</u>	<u>PLAN REFERENCE</u>
<u>C344173</u>	<u>December 19, 1986</u>	<u>PLAN REFERENCE</u>
		<u>NOTICE</u>
		<u>AGREEMENT</u>
<u>C531412</u>	<u>December 22, 1988</u>	<u>NOTICE</u>
<u>C616744</u>	<u>December 12, 1989</u>	<u>NOTICE</u>
		<u>AGREEMENT</u>
<u>C531411</u>	<u>December 22, 1988</u>	<u>EASEMENT</u>
<u>C617313</u>	<u>December 14, 1989</u>	<u>EASEMENT</u>



Document comparison by Workshare Compare on Wednesday, March 04, 2020  
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Input:	
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Description	approval-and-vesting-order-EN
Document 2 ID	PowerDocs://DOCS/4719801/2
Description	DOCS-#4719801-v2-Spergel/TamTan_ - _Approval_ and _Vesting_ Order
Rendering set	Standard

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Deletions	115
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Moved to	0
Style change	0
Format changed	0
Total changes	400



# **TAB 5**

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

THE HONOURABLE

)

FRIDAY, THE 13<sup>th</sup>

)

JUSTICE

)

DAY OF MARCH, 2020

**BETWEEN:**

**ROYNAT INC.**

**Applicant**

**- and -**

**TAMTAN INC. and 1308963 ONTARIO LIMITED (o/a EZ FOOD GROUP)**

**Respondents**

**ORDER**

**THIS MOTION**, made by msi Spergel Inc. in its capacity as Court-appointed receiver (the “**Receiver**”) of the property, assets and undertakings of the Respondents, was heard this day at the Court House, 330 University Avenue, Toronto, Ontario.

**ON READING** the Notice of Motion and the Second Report of the Receiver dated March 3, 2020 (the “**Second Report**”) and the appendices thereto, and on hearing the submissions of counsel for the Receiver and such other counsel listed on the Counsel Slip, no one else from the service list appearing although properly served as evidenced by the affidavit of service of Lynda Christodoulou sworn March ●, 2020, filed,

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.
  2. **THIS COURT ORDERS** that the Second Report, and conduct and activities of the Receiver described therein, be and are hereby approved.
  3. **THIS COURT ORDERS** that the interim Statements of Receipts and Disbursements attached as Appendix “G” to the Second Report be and are hereby approved.
  4. **THIS COURT ORDERS** that the Confidential Appendices to the Second Report shall be sealed and shall not form part of the public record pending the closing of the Transaction (as such term is defined in the Approval and Vesting Order dated March 13, 2020) or further Order of the Court.
-

**ROYNAT INC.**

- and -

**TAMTAN INC. and 1308963 ONTARIO LIMITED (o/a**

**EZ FOOD GROUP)**

Applicant

Respondents

Court File No. CV-19-00628569-00CL

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

Proceedings commenced at TORONTO

**MOTION RECORD**  
(returnable March 13, 2020)  
(re approval of sale transaction and  
other relief)

**CHAITONS LLP**  
5000 Yonge Street, 10<sup>th</sup> Floor  
Toronto, ON M2N 7E9

**Sam Rappos** (LSO #51399S)  
Tel: (416) 218-1137  
Fax: (416) 218-1837  
Email: samr@chaitons.com

**Lawyers for the Court-appointed  
Receiver, msi Spergel Inc.**