

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

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

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

Respondents

MOTION RECORD OF THE RECEIVER

APPROVAL AND VESTING ORDER

(Returnable February 19, 2025)

February 6, 2025

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Solicitors for the Receiver,
msi Spergel Inc.

TO: Service List

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TO: **IRENA GORZHALTSAN AKA IRENA HOMIAKOV**
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Receiver

AND

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AND

TO: **HIS MAJESTY THE KING IN RIGHT
OF ONTARIO AS REPRESENTED BY
THE MINISTRY OF FINANCE**
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AND

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AND

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Tab 1

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

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

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

Respondents

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION
243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3,
AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*,
R.S.O. 1990, c. C.43, AS AMENDED**

**NOTICE OF MOTION
(Returnable February 19, 2025)**

msi Spergel inc. ("**Spergel**") in its capacity as court-appointed receiver (in such capacity, the "**Receiver**"), will make a Motion to a Judge presiding over the Commercial List.

PROPOSED METHOD OF HEARING: The Motion is to be heard:

- In writing under subrule 37.12.1 (1) because it is on consent;
- In writing as an opposed motion under subrule 37.12.1 (4);
- In person;
- By telephone conference;
- By video conference.

at the following location:

On Wednesday, February 19, 2025, at 10:00 a.m., or as soon after that time as the Motion can be heard by judicial teleconference via Zoom at Toronto, Ontario.

THE MOTION IS FOR:

1. An Approval and Vesting Order, substantially in the form attached hereto at Schedule “A”, approving the transaction (the “**Transaction**”) contemplated by the Amendment to Agreement of Purchase and Sale (the “**Purchase Agreement**”) contained in the Second Report of the Receiver dated February 6, 2025 (the “**Second Report**”) and the confidential appendices to the Second Report (the “**Confidential Appendices**”), for the sale of the Real Property (as defined below) and vesting all of the right, title and interest in and to the Real Property absolutely in and to the purchaser 1395559 Ontario Inc. (the “**Purchaser**”), free and clear of and from any any security, charge or other encumbrance;
2. An Ancillary Order, substantially in the form attached at Schedule “B”:
 - a) abridging the time for service, filing and confirmation of the Notice of Motion and the Motion Record, and validating service so that this motion is properly returnable;
 - b) approving the Second Report and the activities and conduct of the Receiver set out therein provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way the approval of the Second Report;
 - c) approving the Receiver’s Interim Statement of Receipts and Disbursements as detailed in the Second Report;
 - d) sealing the Confidential Appendices until the Transaction is completed, or until a further order of this Court;
 - e) releasing and discharging the Receiver from any and all liability with respect to contaminants at the Real Property that the Receiver now has or may hereafter have by reason of, save and except for any gross negligence or willful misconduct on the Receiver’s part;
 - f) approving the fees and disbursements of the Receiver and its counsel, Harrison Pensa LLP, and authorizing payment of same;
 - g) the costs of this motion on a substantial indemnity basis, if opposed; and,

- h) Such further and other relief as counsel may request and this honourable court may permit.

THE GROUNDS FOR THE MOTION ARE:

The Appointment of the Receiver and the Property

1. Pursuant to an Order of this Court made on May 15, 2023 (the “**Appointment Order**”), Spergel was appointed Receiver, without security, of the assets, undertakings and properties of 2743732 Ontario Inc. (the “**Debtor**”), including the real property owned by the Debtor and municipally known as 162 Front Street, Sturgeon Falls, Ontario, and legally described as:

PT LT 3 CON 1 SPRINGER PT 4 – 6 36R6873 SRO & PT 4 – 6 36R7620;
WEST NIPISSING ; DISTRICT OF NIPISSING (PIN 49080-0692 LT) (the “**Real Property**”).

2. On May 27, 2024, the Honourable Justice Cavanagh issued an Order approving a sales process of the Real Property (the “**Sales Process Order**”).

The Receiver’s Activities

3. The Receiver’s activities since its First Report have concentrated on, *inter alia*:
 - a. carrying out the sales process pursuant to the Sales Process Order (the “**Sales Process**”);
 - b. managing the Real Property, including collecting rent and dealing with tenants;
 - c. on-going dealings with respect to two separate insurance claims with respect to damage to the Real Property; and,
 - d. preparing the Second Report.
4. The Receiver requests that its actions, as outlined in the Second Report, should be approved by this Honourable Court.

The Sales Process and the Purchase Agreement

5. The Receiver completed the Sales Process in accordance with the Sales Process Order, which resulted in nine (9) groups providing Non-Disclosure Agreements, and one (1) offer to purchase the Real Property, which offer was submitted by the Purchaser.
6. After reviewing the offer by the Purchaser, the Receiver began negotiating with the Purchaser.
7. Following negotiations between the Purchaser and the Receiver, the Purchaser and the Receiver entered into the Purchase Agreement.
8. The details of the Purchase Agreement are provided in the Confidential Appendices to the Second Report. The Receiver recommends the approval and completion of the Purchase Agreement for, *in er alia*, the following:
 - a. The Sales Process was Court approved, was fulsome and meets the *Soundair* principals;
 - b. The Purchase Agreement provides certainty as to realizations, subject to the terms of the Purchase Agreement, and is supported by The Toronto-Dominion Bank; and
 - c. The Purchase Agreement eliminates any future risk to the Receiver as regards to market conditions.
9. The Receiver is of the view that the Purchase Agreement represents a commercially reasonable transaction which will maximize the recovery and is in the best interests of all stakeholders.

Sealing Order

10. Until such time as the Purchase Agreement is completed, or until further order of this Court, the Receiver is of the view that the information and documentation contained in the Confidential Appendices should be sealed in order to avoid the negative impact that the dissemination of the confidential information contained therein would have.
11. The disclosure of the information contained in the Confidential Appendices could potentially impair the value maximizing purpose of the Sales Process, and the sealing

order sought in relation to the Confidential Appendices (i) aligns with the purpose of the Sales Process and the interest promoted therein; (ii) is fair and reasonable in the circumstances; and (iii) will achieve the desired benefit without unduly impairing the openness of the Court's process.

Professional Fees

12. The Appointment Order requires the Receiver and its legal counsel to pass its accounts from time to time.
13. The Receiver and its counsel have each properly incurred fees and disbursements as detailed in the Second Report.
14. The Receiver seeks the approval of the Receiver's fees and its counsel's fees, as detailed in the Second Report, and payment of same.
15. Section 243 and 249 of the *Bankruptcy and Insolvency Act*.
16. Sections 100 and 137(2) of the *Courts of Justice Act*.
17. Rules 1.04, 2, 3, 37 and 38, of the *Rules of Civil Procedure*.
18. 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 Appointment Order;
2. The Second Report and the Appendices thereto; and,
3. Such materials as counsel may advise and this Honourable Court may permit.

February 6, 2025

HARRISON PENZA LLP

Barristers & Solicitors
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Timothy C. Hogan (LSO #36553S)

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Solicitors for the Receiver,
msi Spergel inc.

Schedule "A"

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

THE HONOURABLE) WEDNESDAY, THE 19TH
)
JUSTICE) DAY OF FEBRUARY, 2025
)

THE TORONTO-DOMINION BANK

Applicant

- and -

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

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by msi Spergel Inc., solely in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of 2743732 Ontario Inc. (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an asset purchase agreement (the "Sale Agreement") between the Receiver and 1395559 Ontario Inc. (the "Purchaser") dated September 20, 2024, as amended by an amendment agreement dated January 29, 2025, and vesting in the Purchaser all of the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets") and referenced in Schedule "B" hereto, was heard this day by judicial videoconference via Zoom at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report of the Receiver and Appendices thereto and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Sydney Inghelbrecht sworn, February 6, 2025, filed:

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such

minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of the Debtors' right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on Schedule B hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Steele dated May 15, 2023; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

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

4. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead

of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

6. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtors' past and current employees, including personal information of those Assumed Employees, if any, as defined in 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 Debtors.

7. THIS COURT ORDERS that, notwithstanding:

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

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

10. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. on the date of this Order and is enforceable without the need for entry or filing.

Justice, Ontario Superior Court of Justice - Commercial List

Schedule A – Form of Receiver’s Certificate

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

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

THE TORONTO DOMINION BANK

Applicant

- and -

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

Respondents

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Steele of the Ontario Superior Court of Justice (the "Court") dated May 15, 2023, msi Spergel Inc. was appointed as the receiver (the "Receiver") of the undertaking, property, and assets of 2743732 Ontario Inc. (“Debtor”).

B. Pursuant to an Order of the Court dated [DATE], the Court approved the agreement of purchase and sale made as of September 20, 2024, as amended by an amendment agreement dated January 29, 2025 (together, the "Sale Agreement") between the Receiver, solely in its capacity as court-appointed receiver of all of the property and assets of 2743732 Ontario Inc., and 1395559 Ontario Inc. (the "Purchaser"), and provided for the vesting in the Purchaser of the Debtors’ right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the

Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

THE RECEIVER CERTIFIES the following:

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

**msi Spergel Inc., solely in its capacity as
Receiver of the undertaking, property and
assets of 2743732 Ontario Inc. and not in its
personal capacity**

Per: _____
Name:
Title:

Schedule B – Purchased Assets

The Purchased Assets, as defined in the Sale Agreement including, without limitation, the Real Property described as follows:

PT LOT 3, CON. 1 SPRINGER PT 4-6, 36R6873 SRO & PT 4-6 36R7620; WEST NIPISSING, DISTRICT OF NIPISSING {PIN: 49080-0692 (LT)}

Schedule C – Claims to be Deleted and Expunged from title to Real Property

1. BS204267, being a charge in favour of The Toronto-Dominion Bank registered September 14, 2021;
2. BS204268, being a notice of assignment of rents in favour of The Toronto-Dominion Bank registered September 14, 2021.

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

(unaffected by the Vesting Order)

1. NB58662, being an order registered January 28, 1965;
2. 36R3618, being a reference plan registered October 9, 1974;
3. 36R4126, being a reference plan registered July 27, 1976;
4. 36R6873, being a reference plan registered July 25, 1985;
5. 36R7620, being a reference plan registered February 4, 1988.

THE TORONTO-DOMINION BANK

v.

2743732 ONTARIO INC.

Applicant

Respondent

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

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

PROCEEDING COMMENCED AT
TORONTO, ONTARIO

ORDER

HARRISON PENZA LLP

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Lawyers for the Receiver,
msi Spergel Inc.

Schedule "B"

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) WEDNESDAY, THE 19TH
JUSTICE CAVANAGH) DAY OF FEBRUARY, 2025

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

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

Respondents

ANCILLARY 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 2743732 Ontario Inc., appointed pursuant to the Order of the Honourable Justice Steele dated May 15, 2023, for an order approving the Receiver's Second Report to the Court dated February 5, 2025 (the "Second Report"), including the Confidential Appendices to the Second Report (the "Confidential Appendices") and the activities and conduct of the Receiver as detailed therein; approving the fees and disbursements of the Receiver and its counsel, Harrison Pensa LLP (all as detailed in the Second Report) (the "Professional Fees"), and payment of same, be approved; Sealing the Confidential Appendices until the completion of the Transaction (as defined in the Second Report), or until further Order of this Court and for other associated relief was heard this day by judicial teleconference via Zoom at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report, including the Confidential Appendices, and on hearing the submissions of counsel for the Receiver and all other counsel and parties present, no one else

appearing for any other person on the service list, although properly served as appears from the affidavit of Sydney Inghelbrecht sworn February 6, 2025, filed;

1. THIS COURT ORDERS that the time for service, filing and confirmation of the Notice of Motion and the Motion Record be and is abridged so that this motion is properly returnable today and hereby dispenses with further service and confirmation hereof.

2. THIS COURT ORDERS that the Second Report, including the Confidential Appendices, and the activities and conduct of the Receiver as detailed therein, be and are approved; provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

3. THIS COURT ORDERS that the Receiver's Statement of Receipts and Disbursements as outlined in the Second Report be and is approved.

4. THIS COURT ORDERS that the Receiver is released and discharged from any and all liability with respect to contaminants at the Real Property (as defined in the Second Report) that the Receiver now has or may hereafter have by reason of, save and except for any gross negligence or willful misconduct on the Receiver's part.

5. THIS COURT ORDERS that the Professional Fees, and payment of same, be and are approved.

6. THIS COURT ORDERS that the Confidential Appendices be and is sealed until the completion of the Transaction, or until further Order of this Court.

Justice, Ontario Superior Court of Justice

(Commercial List)

THE TORONTO-DOMINION BANK

v.

2743732 ONTARIO INC.

Applicant

Respondent

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

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

PROCEEDING COMMENCED AT
TORONTO, ONTARIO

ORDER

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msi Spergel Inc.

THE TORONOT-DOMINION BANK

Applicant

and

2743732 ONTARIO INC., et al.

Respondents

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

**ONTARIO
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PROCEEDING COMMENCED AT
TORONTO, ONTARIO

NOTICE OF MOTION

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Solicitors for the Receiver,
msi Spergel inc.

Tab 2

Court File No. CV-23-000698068-00CL

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

B E T W E E N:

THE TORONTO DOMINION BANK

Applicant

and

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

Respondents

**SECOND REPORT OF MSI SPERGEL INC.
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF
2743732 ONTARIO INC.**

FEBRUARY 6, 2025

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7. Listing Agreement with respect to the Real Property
8. Redacted Sale Agreement with 1395559 Ontario Inc.
9. October 9, 2024 letter from Purchaser
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11. November 29, 2024 email exchange with TSSA
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14. PPSA Search Report
15. Security Opinion
16. The Receiver's Fee Affidavit sworn February 3, 2025
17. The Receiver's Counsel Fee Affidavit sworn February 5, 2025
18. Receiver's Interim Statement of Receipts and Disbursements as of January 31, 2025

CONFIDENTIAL APPENDICES

1. Final Progress Report of Listing Broker
2. Unredacted copy of the Amended Sale Agreement with 1395559 Ontario Inc.

I. APPOINTMENT AND BACKGROUND

1. This report (the **“First Report”**) is filed by msi Spergel inc. (**“Spergel”**), in its capacity as the Court-appointed receiver (in such capacity, the **“Receiver”**) of 2743732 Ontario Inc. (**“2743”** or the **“Debtor”**).
2. 2743 is incorporated pursuant to the laws of the Province of Ontario having its registered office at 298 Lennox Avenue, Richmond Hill, Ontario. 2743 carried on the business of a retail gas bar from the Real Property (as defined herein). The director of 2743 is Sergei Homiakov.
3. 2743 is the owner of the real property legally described as Part Lot 3, Concession 1 Springer being PT4-6 registered plan 36R6873 SRO & PT 4-6 registered plan 36R7620; West Nipissing; District of Nipissing {PIN: 49080-0692 (LT)} and municipally known as 162 Front Street, Sturgeon Falls, Ontario (the **“Real Property”**).
4. On May 15, 2023, The Toronto Dominion Bank (**“TD”** or the **“Bank”**), a secured creditor of the Debtor, moved by way of an application in the Ontario Superior Court of Justice (Commercial List) (the **“Court”**) for a Court order appointing Spergel as the Receiver of all of the assets, undertakings, and properties, including the Real Property (collectively, the **“Property”**) of the Debtor.
5. The Bank’s application, originally returnable on May 9, 2023, was adjourned to May 15, 2023, pursuant to the endorsement of the Honourable Madam Justice Steele dated May 9, 2023 (the **“May 9th Endorsement”**) to permit the Debtor to engage counsel. Attached to this First Report as **Appendix “1”** is a copy of the May 9th Endorsement.
6. At the hearing of the Bank’s application on May 15, 2023, the Honourable Madam Justice Steele issued an endorsement (the **“May 15th Endorsement”**) noting that

the Debtor did not appear and that there was no opposition to the relief being sought by the Bank. On the same day, the Court granted an Order appointing Spergel as Receiver of the Property of the Debtor (the “**Receivership Order**”). Attached to this First Report as **Appendices “2”** and “**3**”, respectively, are copies of the May 15th Endorsement and the Receivership Order.

7. The Receiver retained Harrison Pensa LLP (the “**Receiver’s Counsel**”) as its independent counsel.

8. On May 27, 2024, the Receiver brought a motion before the Court for an Order, *inter alia*:
 - a) approving the First Report dated May 14, 2024 (the “**First Report**”) and the activities and conduct of the Receiver set out therein;

 - b) authorizing and directing the Receiver to list the Real Property for sale on the Multiple Listing Service system (“**MLS**”) under a joint listing agreement with Avison Young Commercial Real Estate Service LP (“**Avison**”) and Malette Goring Inc., Brokerage (“**Malette Goring**”, collectively the “**Listing Brokers**”); and

 - c) authorizing and directing the Receiver, in conjunction with the Listing Brokers as its real estate consultant to carry out a sale process with respect to the Real Property and to take such steps and execute such documentation as the Receiver considers necessary or desirable in carrying out its obligations thereunder, subject to the prior approval of this Court being obtained before completion of any transaction resulting from the said sale process.

9. Attached to this Second Report as **Appendix “4”** is a copy of the First Report without appendices.

10. By order of the Honourable Justice Cavanagh dated May 27, 2024, the Court granted the relief sought by the Receiver. Attached to this Second Report as **Appendices “5” and “6”**, respectively are copies of the Endorsement of Justice Cavanagh dated May 27, 2024 (the “**May 27th Endorsement**”) and the Order issued by Justice Cavanagh dated May 27, 2024 (the “**Sale Process Order**”).
11. All capitalized terms not defined herein shall have the same meaning as ascribed in the First Report and the Sale Process Order.

II. PURPOSE OF THIS SECOND REPORT AND DISCLAIMER

12. The purpose of this Second Report is to advise the Court as to the steps taken by the Receiver since its First Report and to seek Orders from this Honourable Court:
 - a) approving the Second Report and the actions and activities of the Receiver described herein and that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way the approval of the Second Report;
 - b) approving the Receiver’s Interim Statement of Receipts and Disbursements as at January 31, 2025;
 - c) approving an agreement of purchase and sale between the Receiver, as Vendor and 1395559 Ontario Inc., as Purchaser (the “**Purchaser**”) dated September 20, 2024 (the “**Original Sale Agreement**”) as amended by an Agreement dated January 29, 2025 (the “**Amending Agreement**”, collectively, the “**Sale Agreement**”), and authorizing the Receiver to complete the transaction contemplated thereby (the “**Transaction**”);
 - d) vesting in the Purchaser all of the Debtor’s right, title and interest in and to the Purchased Assets (as defined in the Sale Agreement) free and clear of

any claims and encumbrances (other than permitted encumbrances identified in the Sale Agreement);

- e) releasing and discharging the Receiver from any and all liability with respect to contaminants at the Real Property that the Receiver now has or may hereafter have by reason of, save and except for any gross negligence or willful misconduct on the Receiver's part;
- f) sealing the Confidential Appendices (as defined herein) to this Second Report until the closing of the Transaction or further Order of this Court;
- g) approving the fees and disbursements of the Receiver for the period from May 1, 2024 to and Including December 31, 2024 and the Receiver's Counsel for the period from May 1, 2024 to and including February 5, 2025 and payment of same; and
- h) such further and other relief as counsel may request and this Honourable Court may permit.

Disclaimer

- 13. 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 purpose than intended.
- 14. In preparing this Second Report, the Receiver has relied upon certain information found on site and/or provided to it by the management of the Debtor including, without limitation, past financial performance, and other financial information. The Receiver has not performed an audit or verification of such information for accuracy, completeness or compliance with Accounting Standards for Private Enterprises or International Financial Reporting Standards. Accordingly, the Receiver expresses

no opinion or other forms of assurance with respect to such information. Future oriented financial information relied upon in this Second Report is based on assumptions regarding future events, actual results achieved may vary from this information and these variations may be material.

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

III. ACTIONS OF THE RECEIVER

16. The gas station was not in operation as at the granting of the Receivership Order and the Receiver has not operated the gas station business since its appointment.
17. The following tenants continue to operate from the Real Property:
 - a) 2802369 Ontario Ltd., o/a Guy's Auto Repair and
 - b) Steve's Premier Pizza.
18. Since the issuance of the Sales Process Approval Order, the Receiver has attended to the following:
 - a) generally managing the Real Property including collection of rent and dealing with tenants;
 - b) entered into an MLS listing agreement with the Listing Brokers (the "**Listing Agreement**") with respect to the Real Property and instructed the Listing Brokers to commence a fulsome sales and marketing process. A copy of the executed Listing Agreement is attached to this Second Report as **Appendix "7"**;

- c) on-going dealings with respect to two separate insurance claims with respect to damage to the Real Property with one claim resulting from an incident involving an automobile hitting the side of the gas bar building and the second incident involving a fire alleged to have been intentionally started by an individual caught on camera and currently being investigated by the authorities as arson. The Receiver is dealing with the insurance company and awaiting conclusion of the investigation to collect the insurance proceeds. These insurance proceeds are not being sold to the Purchaser and the Receiver will continue its efforts to collect from the insurance company. Any proceeds recovered will be for the benefit of the estate;
- d) engaging and communicating with the Ministry of the Environment Conservation and Parks, Ontario (“**MECP**”) and the Technical Standards and Safety Authority, Ontario (“**TSSA**”) with respect to the contamination on the Real Property and the Receiver’s intention to sell the Real Property on an “as-is, where-is” basis without remediation;
- e) working with the Listing Broker with respect to the current purchaser of the Real Property to finalize the transaction that is the subject matter of this motion by the Receiver; and
- f) engaged with the Debtor’s counsel and provided to the Debtor under the terms of a Confidentiality Undertaking the certain of the Confidential Appendices, which are subject to the Sealing order sought here.

19. The MECP and the TSSA will be served with the Receiver’s motion record.

IV. THE SALE PROCESS

20. The purpose of the Sale Process approved by the Court pursuant to the Sale Process Order was to provide third parties with an opportunity to submit bids for the

acquisition of the Real Property.

21. As outlined in the First Report, the Receiver engaged the services of Wagner and Colliers to conduct market value valuations of the Real Property and engaged A&A Environmental Consultants to conduct certain environmental assessments. The appraisals and the environmental assessments were included in the First Report as confidential appendices, were filed with the Court and are subject to a sealing order.

22. The key aspects of the Sale Process are as follows:
 - a) In accordance with the Sale Process Order, the Receiver entered into the Listing Agreement with respect to the Real Property with the Listing Brokers.
 - b) The Listing Brokers established a data room which contained all available information with respect to the Real Property including but not limited to all environmental reports;
 - c) The Real Property was advertised for approximately four (4) months. The Real Property was widely exposed to the market. It was posted for sale on the MLS in both the Greater Toronto Real Estate Board as well as the Sudbury Real Estate Board given the location of the Real Property in Sturgeon Falls, Ontario;
 - d) The Listing Brokers conducted a broad marketing campaign which consisted of five separate email blasts to several thousand prospective purchasers as well as many real estate agents;
 - e) Nine (9) interested parties executed a non-disclosure agreement (“**NDA**”) and were provided access to the virtual data room. Only two (2) of the nine (9) interested parties conducted a physical site visit of the Real Property;
 - f) Despite the marketing efforts of the Listing Brokers, only one offer was received, namely the offer submitted by the Purchaser.

23. Attached to this Second Report as **Confidential Appendix “1”** is a copy of the final progress report dated January 7, 2025 prepared by the Listing Brokers.
24. As no other offers besides the offer from the Purchaser were received by the Receiver, the Receiver entered into the Sale Agreement with the Purchaser conditional upon the approval of this Honourable Court and accordingly is the subject matter, inter alia, of the motion brought by the Receiver. Attached to this Second Report as **Appendix “8”** is a redacted copy of the Sale Agreement. Attached to this Second Report as **Confidential Appendix “2”** (collectively with Confidential Appendix “1”, the **“Confidential Appendices”**) is an unredacted copy of the Sale Agreement.
25. The Receiver is of the view that the Sale Process was conducted in a commercially reasonable manner and the market was extensively canvassed pursuant to the Listing Broker’s marketing efforts outlined herein and in the progress report provided by the Listing Brokers.
26. It is the opinion of the Receiver that the terms and conditions contained within the Sale Agreement are commercially reasonable in all respects and that the purchase price in the Sale Agreement is at market value for the Real Property, and is the best outcome to the estate in the circumstances. The salient terms of the Sale Agreement are as follows (all capitalized terms in this section not defined in the Sale Agreement are as otherwise defined in the Second Report):
 - a) the Purchased Assets include the Real Property;
 - b) the deposit to be provided under the Sale Agreement has been received from the Purchaser;
 - c) the offer is firm and unconditional, other than usual closing conditions that are customary for transactions of this nature;
 - d) the offer was the only and the highest and best offer for the Real Property;

- e) the Purchaser is buying the Purchased Assets on an “as is, where is basis”;
- f) the Sale Agreement is subject to Court approval and the issuance of an order vesting title to the Purchased Assets in the Purchaser free and clear of all claims and encumbrances, other than permitted encumbrances itemized in the Sale Agreement;
- g) The Purchaser has the obligation to do all due diligence in relation to all Potential Tenancies and the responsibility in relation to same;
- h) The Purchaser acknowledged that:
 - i. that the Lands forming part of the Purchased Assets have historically been used for the storage, sale and transfer of petroleum products and may have petroleum impregnated surface and subsurface conditions and may contain other Hazardous Materials, and that the environmental condition of the Lands may not meet applicable standards under Environmental Law;
 - ii. shall rely entirely on its own investigations and satisfy itself with respect to the environmental condition of the Lands, and acknowledges that the Vendor shall have no obligation whatsoever to remediate or otherwise bring the Lands into compliance with applicable Environmental Law;
 - iii. may need to seek approval from the appropriate authorities with respect to any proposed remediation which the Purchaser may be required to undertake in connection with its acquisition of the Lands and that, as a condition of any such remediation and of the Approval and Vesting Order, the Vendor shall be released from any and all liability in relation to the environmental condition of the Lands and the MECP shall, if required, have approved the transaction and/or proposed remediation
 - iv. closing of the Transaction is scheduled to occur on the first Business Day following the date upon which the time to appeal the Approval and

Vesting Order has expired, or, in the event that an appeal from the Appeal and Vesting Order is filed, the first Business Day following the final dismissal of the appeal or such other date as agreed between the Purchaser and the Receiver.

27. TD has been consulted with respect to the Transaction and supports the completion of same and the relief sought by the Receiver in the within motion.
28. The principal of the Debtor, through counsel, was provided pursuant to a confidentially undertaking with a copy of the Sale Agreement and has not taken a position regarding same.
29. The Receiver recommends that the Court approve the Transaction.
30. All parties with an interest in the Real Property have been served with this motion.
31. If the closing of the Transaction is approved, same will close on ten business days after the date that the Approval and Vesting Order is granted by this Court.

V. ENVIRONMENTAL ISSUES

32. On or about October 9, 2024, the Receiver was provided with a copy of a letter sent by the Purchaser outlining its intended use of the Real Property and the proposed clean-up thereof. Attached to this Second Report as **Appendix "9"** is a copy of the letter provided to the Receiver by the Purchaser which outlined the Purchaser's intended use of the Real Property.
33. In light of the environmental issues related to the Real property, the Receiver thought it prudent to involve the MECP so as to determine its concerns, if any, with a sale of contaminated lands on an "as-is, where-is" basis. Attached to this Second Report as **Appendix "10"** is a copy of an email (the "**MECP Email**") sent to the MECP on October 28, 2024. This email resulted in a conference call with the Receiver, the Receiver's Counsel and representatives of MECP aimed at determining the position of MECP to a sale of "contaminated" land. It was concluded after this conference

call and subsequent email exchanges that the mandate of the MECP does not result in it opposing the proposed sale but referred the Receiver to the TSSA which had issued an inspection report relative to the Real Property, which report was submitted as a confidential appendix to the First Report.

34. The Receiver sent an email on November 28, 2024 (the “**November 29th Email**”) to the signatory on the TSSA inspection report to inform of the impending sale and enquiring as to the involvement of the TSSA in the proposed transaction. The TSSA advised that once the Transaction closed the Purchaser would have to schedule an inspection, and a petroleum contractor would need to perform testing and submit a report for all maintenance and testing required under the 2017 TSSA Liquid Fuels Handling Code (“**LFHC-2017**”). Attached to this Second Report as **Appendix “11”** is a copy of the November 28th Email exchange with TSSA.
35. Attached to this Second Report as **Appendix “12”** is a letter dated December 6, 2024 from the real estate broker representing the Purchaser requesting a reduction in the purchase price in the amount of \$20,000 ostensibly due to the additional costs to meet the requirements of TSSA LFHC-2017 (the “**December 6th Letter**”) In an effort to preserve the transaction, the Receiver has agreed, due to the delays in dealing with MECP and TSSA and the additional cost of compliance with TSSA LFHC-207 to a price reduction of \$10,000. This reduction is conditional upon the Purchaser closing the transaction immediately after the expiry of the appeal period relative to the Sale Approval and Vesting Order.
36. The Receiver is of the view that the purchase price contemplated under the Sale Agreement is fair and reasonable in light of the environmental issues as previously reported to the Court and further detailed herein in relation to the Real Property.
37. While the Real Property generates some rental income, the Receiver was required to borrow funds to cover initial repairs and on-going property management expenses. There is presently a significant amount owing on account of realty taxes which the Receiver is unable to pay, and which amount will continue to accrue until

such time as the Real Property is sold. In addition, on-going insurance premiums, maintenance, and operational expenses relative to the Real Property as well as on-going professional costs will continue to have a negative impact on the realizations for stakeholders should the Transaction not be approved and completed.

VI. SECURED AND PRIORITY CREDITORS

38. Attached to this Second Report as **Appendix “13”** is a copy of the parcel register dated January 21, 2025 for the Real Property. There are no instruments and encumbrances to be vested out.
39. Attached to this Second Report as Appendix “14” is a copy of a search of registrations against the Debtor under the *Personal Property Security Act (“PPSA”)* as of January 21, 2025. The Toronto Dominion Bank is the only secured party registered.
40. As of January 28, 2025, there were outstanding realty taxes on the Real Property in the amount of \$86,553. If the Transaction is approved and completed, the outstanding realty taxes are anticipated to be paid from the sale proceeds as part of closing. The Receiver anticipates bringing a further motion for distribution of funds on hand, if any, once all matters related to the proceedings are completed.
41. The Receiver has obtained from Harrison Pensa LLP, an independent legal opinion confirming the validity and enforceability and priority of TD’s security including the charge/mortgage registered on title to the Real Property, subject to the usual assumptions and qualifications of opinions of such nature (the “**Security Opinion**”). A copy of the Security Opinion is attached to this Second Report as **Appendix “15”**.
42. Save and except for a letter requesting the filing of a corporate tax return for the fiscal year ending December 31, 2022, there has been no communication from the Canada Revenue Agency (“**CRA**”).

VII. REQUEST FOR A SEALING ORDER

43. The Receiver is requesting a sealing order with respect to the Confidential Appendices as such appendices contain information, the content of which would be prejudicial should the Transaction contemplated herein not close.

VIII. PROFESSIONAL FEES AND DISBURSEMENT

44. Attached to this Second Report as **Appendix “16”** is the Affidavit of Philip Gennis sworn February 3, 2025, (the **“Receiver’s Fee Affidavit”**) which incorporates by reference a copy of the Receiver’s time dockets pertaining to the receivership of 2743 for the period from May 1, 2024 to and including December 31, 2024 in the amount of \$45,014.12 inclusive of disbursements and HST. This represents a total of 98.50 hours at an average hourly rate of \$404.42 excluding HST. Receiver’s fees to April 30, 2024 were previously approved by this Honourable Court
45. Attached hereto as **Appendix “17”** to this First Report is the Affidavit of Thomas Masterson sworn February 5, 2025, (the **“Receiver’s Counsel Fee Affidavit”**) which incorporates by reference a copy of the time dockets of the Receiver’s Counsel for the period from May 15, 2024 to and including February 5, 2025 in the amount of \$24,674.87 inclusive of disbursements and HST. Receiver’s Counsel fees to May 14, 2024 were previously approved by this Honourable Court.
46. The Receiver has reviewed the accounts of the Receiver’s Counsel and is of the view that all the work set out in these accounts was carried out and was necessary, that the hourly rates of the lawyers who worked on this matter were reasonable in light of the services required and that the services were carried out by lawyers with the appropriate level of experience.

IX. RECEIVER'S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

47. Attached hereto as **Appendix "18"** is a copy of the Interim Statement of Receipts and Disbursements of the Receiver as of January 31, 2024

X. RECOMMENDATIONS

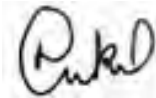
48. The Receiver respectfully requests that this Honourable Court grant the relief sought in this Second Report.

All of which is respectfully submitted.

Dated at Toronto, this 6th day of February 2025.

msi Spergel inc.,
solely in its capacity as Court-appointed
Receiver of 2743732 Ontario Inc. and not
in any corporate or personal capacities.

Per:



Mukul Manchanda, CPA, CIRP, LIT
Managing Partner

Appendix 1



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP

COURT FILE NO.: CV-23-00698068-00CL

DATE: MAY 9, 2023

NO. ON LIST: 4

TITLE OF PROCEEDING: THE TORONTO-DOMINION BANK v. 2743732 ONTARIO INC. et al

BEFORE JUSTICE: STEELE

PARTICIPANT INFORMATION

For Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
KYLE PLUNKETT	Counsel for the Applicant, the Toronto-Dominion Bank	kplunkett@airdberlis.com
MATILDA LICI		mlici@airdberlis.com

For Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
SERGEI HOMIAKOV	Self-represented Respondent, principal of 2743732 Ontario Inc.	arielluxury@gmail.com

For Other:

Name of Person Appearing	Name of Party	Contact Info
MUKUL MANCHANDA	The Proposed Receiver, msi Spergel Inc.	mmanchanda@spergel.ca

ENDORSEMENT OF JUSTICE STEELE:

1. This is an application by The Toronto Dominion Bank under section 243(1) of the *Bankruptcy and Insolvency Act* to appoint msi Spergel Inc. as receiver of all of the assets of the debtor, 2743732 Ontario Inc., and obtain judgment against Sergei Homaikov and Irena Gorzhaltsan in accordance with their guarantees.
2. Sergei Homaikov attended. He indicated that he was the owner of the debtor, 2743732 Ontario Inc.
3. Mr. Homaikov indicated that he had reached out to counsel and that he would be meeting with counsel on Thursday, May 11, 2023.
4. In the circumstances, the Court determined that a very brief adjournment was appropriate. The application is adjourned to May 15, 2023 at 12:30 (30 minutes) before me.



Appendix 2



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP

COURT FILE NO.: CV-23-00698068-00CL DATE: 15 May 2023

NO. ON LIST: 2

TITLE OF PROCEEDING: The Toronto-Dominion Bank v. 2743732 Ontario Inc., et al.

BEFORE: JUSTICE STEELE

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
Matilda Lici	Counsel for the Applicant	mlici@airdberlis.com
Miranda Spence	Counsel for the Applicant	mspence@airdberlis.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
Matthew Harris	Counsel for the Respondents	matthew@mrhlawyer.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Mukul Manchanda	Counsel for the Proposed Receiver, MSI Spergel Inc.	mmanchanda@spergel.ca

ENDORSEMENT OF JUSTICE STEELE:

1. TD Bank brings an application under s. 243(1) of the BIA to appoint a receiver over the assets of 2743732 Ontario Inc. ("274").
2. Today's appearance was further to an adjournment last week to give the debtors the opportunity to consult counsel.
3. The appointment of a receiver is not opposed.
4. 274 is in default for non-payment under its loan arrangements with TD Bank since January 2023. TD Bank holds first ranking security on all of the debtor's property, including certain real property. TD Bank is the only party with a registered security interest against the debtor.
5. On or about March 30, 2023 TD Bank made a formal demand for repayment and delivered a notice of intention to enforce security under s. 244 of the BIA.
6. The debtor owes TD Bank approximately \$2.8 million.
7. Under the security documents, TD Bank is entitled to have a receiver appointed over the debtor upon any default under the credit agreement or the security. Default has occurred.
8. I am satisfied that it is appropriate in the circumstances to appoint a receiver of the property of the debtor.
9. TD Bank's application also seeks judgment against the personal guarantors. The parties advised that they will schedule a conference to timetable this portion of the application.
10. Order attached.



Appendix 3

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

THE HONOURABLE
JUSTICE STEELE

)
)

MONDAY, THE 15TH
DAY OF MAY, 2023

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

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

Respondents

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

**ORDER
(appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), appointing msi Spergel Inc. as receiver (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of 2743732 Ontario Inc. (the “**Debtor**”), including the real property

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

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

SERVICE

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

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, msi Spergel Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and Property of the Debtor, including the Real Property, and all proceeds thereof.

RECEIVER’S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the

relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

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

shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

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

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

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

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

Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

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

application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

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

NO EXERCISE OF RIGHTS OR REMEDIES

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

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

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

EMPLOYEES

14. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such

amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers

under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, including, but not limited to, any illness or bodily harm resulting from a party or parties contracting COVID-19, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

20. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$300,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

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

SERVICE AND NOTICE

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

[commercia/](#)) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://www.spergelcorporate.ca/engagements>.

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

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

GENERAL

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

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

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

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

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

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

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



SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. **THIS IS TO CERTIFY** that msi Spergel Inc., the receiver (the “**Receiver**”) of the assets, undertakings and properties of 2743732 Ontario Inc., including the real property municipally known as 162 Front Street, Sturgeon Falls, Ontario, P2B 2H8 and legally described as PIN 49080-0692 LT, PT LT 3 CON 1 SPRINGER PT 4 - 6 36R6873 SRO & PT 4 - 6 36R7620; WEST NIPISSING ; DISTRICT OF NIPISSING (the “**Real Property**”), all proceeds thereof (collectively, the “**Property**”) appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated the 9th day of May, 2023 (the “**Order**”) made in an action having Court file number _____, has received as such Receiver from the holder of this certificate (the “**Lender**”) the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

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

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

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

DATED the ____ day of _____, 20__.

MSI SPERGEL INC. solely in its capacity as
Court-appointed Receiver of 2743732 Ontario
Inc., and not in its corporate or personal capacity

Per: _____
Name:
Title:

THE TORONTO-DOMINION BANK

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

Applicant

Respondents

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

RECEIVERSHIP ORDER

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Lawyers for The Toronto-Dominion Bank

Appendix 4

Court File No. CV-23-000698068-00CL

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

B E T W E E N:

THE TORONTO DOMINION BANK

Applicant

and

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

Respondents

**FIRST REPORT OF MSI SPERGEL INC.
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF
2743732 ONTARIO INC.**

MAY 14, 2024

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APPENDICES

1. The May 9th Endorsement
2. The May 15th Endorsement
3. The Receivership Order
4. Draft Joint Listing Agreement
5. The Receiver's Fee Affidavit sworn May 13, 2024
6. The Receiver's Counsel Fee Affidavit sworn May 14, 2024
7. Receiver's Interim Statement of Receipts and Disbursements as of May 13, 2024, 2024

CONFIDENTIAL APPENDICES

1. Phase 2 Environmental Report
2. Delineation Report
3. Remediation Quote
4. TSSA Inspection Report
5. Wagner Kovacs Appraisal
6. Colliers Appraisal

I. APPOINTMENT AND BACKGROUND

1. This report (the “**First Report**”) is filed by msi Spergel inc. (“**Spergel**”), in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”) of 2743732 Ontario Inc. (“**2743**” or the “**Debtor**”).
2. 2743 is incorporated pursuant to the laws of the Province of Ontario having its registered office at 298 Lennox Avenue, Richmond Hill, Ontario. 2743 carried on the business of a retail gas bar out of premises located at 162 Front Street, Sturgeon Falls, Ontario (the “**Business Premises**”). The director of 2743 is Sergei Homiakov.
3. 2743 is the owner of the real property legally described as Part Lot 3, Concession 1 Springer being PT4-6 registered plan 36R6873 SRO & PT 4-6 registered plan 36R7620; West Nipissing; District of Nipissing {PIN: 49080-0692 (LT)} and municipally known as 162 Front Street, Sturgeon Falls, Ontario (the “**Real Property**”).
4. On May 15, 2023, The Toronto Dominion Bank (“**TD**” or the “**Bank**”), a secured creditor of the Debtor, moved by way of an application in the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) for a Court order appointing Spergel as the Receiver of all of the assets, undertakings, and properties, including the Real Property (collectively, the “**Property**”) of the Debtor.
5. The Bank’s application, originally returnable on May 9, 2023, was put over to May 15, 2023, pursuant to the endorsement of the Honourable Madam Justice Steele dated May 9, 2023 (the “**May 9th Endorsement**”) to permit the Debtor to engage

counsel. Attached to this First Report as **Appendix “1”** is a copy of the May 9th Endorsement.

6. At the hearing of the Bank’s application on May 15, 2023 the Honourable Madam Justice Steele issued an endorsement (the “**May 15th Endorsement**”) noting that the Debtor did not appear and that there was no opposition to the relief being sought by the Bank. The Court granted an Order appointing Spergel as Receiver of the Property of the Debtor (the “**Receivership Order**”). Attached to this First Report as **Appendices “2”** and “3”, respectively, are copies of the May 15th Endorsement and the Receivership Order.
7. The Receiver retained Harrison Pensa LLP (the “**Receiver’s Counsel**”) as its independent legal counsel.

II. PURPOSE OF THIS FIRST REPORT AND DISCLAIMER

8. The purpose of this First Report is to advise the Court as to the steps taken by the Receiver to date in these proceedings and to seek Orders from the Court, including:
 - a) providing the Court with an update in respect of the activities of the Receiver since the date of the Receivership Order;
 - b) approving this First Report and the actions and activities of the Receiver described herein and that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way the approval of the First Report;

- c) approving the Receiver's Interim Statement of Receipts and Disbursements as at May 13, 2024;
- d) authorizing and directing the Receiver to execute a Joint Listing Agreement as defined below (the "**Listing Agreement**") between the Receiver, Avison Young Commercial Real Estate Service LP, Brokerage ("**Avison Young**") and Malette Goring Inc., Brokerage ("**Malette Goring**") collectively (the "**Listing Broker**") and to take such steps as the Receiver deems necessary or advisable to carry out the terms thereof;
- e) authorizing and directing the Receiver, in conjunction with the Listing Brokers as its real estate consultant, to carry out the Sale Process (as defined herein) and to take such steps and execute such documentation as the Receiver considers necessary or desirable in carrying out its obligations thereunder, subject to the prior approval of this Court being obtained before completion of any transaction resulting from the Sale Process;
- f) sealing the Confidential Appendices (as defined herein) to the First Report; and
- g) approving the fees and disbursements of the Receiver to and including April 30, 2024, and the Receiver's Counsel to and including May 14, 2024, and the payment of same.

Disclaimer

- 9. The Receiver will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction, or use of this First Report for any other purpose than intended.

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

III. **RECEIVER'S ACTIVITIES**

12. A copy of the Receivership Order was provided to the Debtor. In addition, the Receiver prepared its statutory Notice and Statement of the Receiver in accordance with subsections 245(1) and 246(1) of the *Bankruptcy and Insolvency Act* (Canada) and mailed same to all creditors known to the Receiver.
13. Since the effective date of its appointment on May 15, 2023, the Receiver directly or through the Receiver's Counsel attended to the following:
 - a) attended at the Business Premises to ascertain the status of the gas bar operations and the state of repair of the structures located on the Real Property;
 - b) secured the Business Premises and gas pumps as the business had ceased operating;

- c) disposed of perishable goods in the convenience store and arranged for regular site inspections of the Real Property;
- d) arranged for snow removal and repairs as needed;
- e) attended to opening accounts and payments to utility companies;
- f) communicated with the Debtor directly or through counsel in relation to, amongst other things, obtaining books and records of the Debtor;
- g) arranged for funding from the Bank;
- h) opened a dedicated trust account for the receivership entity;
- i) arranged for two appraisals to be completed on the Real Property;
- j) engaged the services of A&A Environmental Consultants Inc., to complete a Phase II Environmental Assessment of the Real Property;
- k) arranged for insurance on the Real Property and other assets to the extent required;
- l) communicated with the Tenants (as defined herein) regarding the receivership and served directions regarding payment of rent;
- m) communicated with the Canada Revenue Agency ;
- n) dealing with an insurance claim resulting from an incident involving an automobile hitting the side of the gas bar building; and
- o) requested and received sales and marketing proposals from two commercial real estate brokerages.

14. The Receiver has not operated the gas station from the Business Premises.

IV. THE REAL PROPERTY

The Tenants

15. The Real Property is subject to two tenancies, namely Steve's Premier Pizza and Guy's Auto Repair. The Receiver has continued to collect rent from the tenants who have both expressed an interest in remaining as tenants.

Environmental Concerns

16. As indicated above, the Receiver engaged the services of A&A Environmental Consultants Inc. ("**A&A**") to complete a Phase II Environmental Assessment of the Real Property (the "**Phase 2 Report**").
17. A&A noted in its Phase 2 Report, a number of chemical exceedances and recommended a delineation program for the Real Property to determine the extent of the identified impacts, followed by a remediation program to reduce the impacts below the applicable Ministry of the Environment Conservation and Parks ("**MECP**") guidelines.
18. In response to the recommendations contained in the Phase 2 Report, the Receiver requested and received a Delineation Report for the Real Property from A&A (the "**Delineation Report**") which report isolated the contaminants found as

a result of the testing done as part of the Phase II Assessment.

19. A&A also provided a Remediation Quote for the Real Property dated September 18, 2023 (the “**Remediation Quote**”).
20. In addition, the Receiver was provided with an inspection report issued by the Technical Standards and Safety Authority (the “**TSSA Inspection Report**”) related to the fuel remaining in the underground tanks located on the Real Property.
21. Attached to this First Report as **Confidential Appendices 1 through 4**, respectively are copies of the Phase 2 Report, the Delineation Report, the Remediation Quote and the TSSA Inspection Report
22. The Receiver proposes to include the Phase 2 Report, the Delineation Report, the Remediation Quote and the TSSA Inspection Report in a data room overseen by the Listing Broker with full access granted to prospective purchasers signing a Non-Disclosure Agreement, when an approved sale process, as described in detail below, is ultimately conducted with respect to the Real Property.
23. It is the Receiver’s intention to expose the Real Property to the marketplace in an effort to garner an understanding as to the saleability of the Real Property in light of the environmental issues described above. This approach will enable the Receiver to advise the stakeholders if there is any interest in the Real Property and whether it would be commercially reasonable to move forward with remediation of the Real Property.

V. THE PROPOSED SALE PROCESS

24. Pursuant to the terms of the Receivership Order, the Receiver is authorized to market any or all of the Property, including advertising and soliciting offers in respect of the Property, or any part or parts thereof, and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate. The

sole asset of 2743 is the Real Property.

25. The Receiver engaged the services of Wagner, Andrews & Kovacs Ltd. (“**Wagner**”) and Colliers International (“**Colliers**”) to attend at and conduct full narrative appraisals of the Real Property. Copies of these Appraisals are attached to this First Report as **Confidential Appendices “5”** and **“6”**, respectively.
26. The Receiver obtained listing proposals from Avison Young Commercial Real and Malette Goring.
27. It is the Receiver’s intention to expose the Real Property to the marketplace in an effort to garner an understanding as to the saleability of the Real Property in light of the environmental issues described above.
28. In discussions with both real estate brokerages, it became apparent, given the expertise of both brokers and the proximity to the Real Property of Malette Goring and its knowledge of real estate in Northern Ontario where the Real Property is located, that a joint listing agreement with both brokerages would best serve the needs of the Receiver to optimize recovery for the stakeholders. The brokers have agreed to split the five (5%) percent commission sixty-fourty in favour of Malette Goring with any cooperating broker receiving two (2%) percent out of the total commission payable
29. Accordingly, the Receiver recommends entering into a Joint Listing Agreement (the “**Joint Listing Agreement**”) with Avison Young and Malette Goring on terms acceptable to the Receiver for the following reasons:
 - a) the commission structure is identical;
 - b) there is a willingness of both brokerages to work cooperatively; and

- c) the skill set of both brokerages combined will garner maximum recovery for the Real Property.

Attached to this First Report as **Appendix “4”** is a copy of the draft Joint Listing Agreement,

- 30. The sale process proposed herein (the “**Sale Process**”) is designed to ensure that the marketing process is fair and reasonable and prospective interested parties can make an offer to purchase the Real Property.

- 31. The principal elements of the proposed Sale Process are as follows:

- a) A transparent listing process;
- b) As soon as is reasonably possible, the listing brokers will list the Real Property on the MLS service at a zero-dollar listing price and distribute marketing material notifying prospective purchasers of the existence of the offering and inviting prospective purchasers to submit an offer in respect of the Real Property, pursuant to the terms of the Sale Process;
- c) Prospective purchasers that wish to commence due diligence will be required to execute a non-disclosure agreement (“**NDA**”), after which each will be granted access to the Listing Broker’s Data Room;
- d) A binding Agreement of Purchase and Sale must comply with all the following:
 - i. The Offer is an offer using the Receiver’s Form of Offer to purchase the Real Property on terms and conditions acceptable to the Receiver and delivered to the listing broker;
 - i. It is duly authorized and executed and includes a purchase price for

the Real Property expressed in Canadian dollars (the “**Purchase Price**”), together with all exhibits, schedules, and all applicable ancillary agreements thereto;

ii. Includes a letter of acknowledgement stating that the offer is irrevocable and open for acceptance until a successful offer is selected by the Receiver;

iii. Is accompanied by written evidence of a firm, irrevocable commitment for financing or other evidence satisfactory to the Receiver, at its sole discretion, of the ability of the Qualified Offeror to consummate the proposed transaction and pay the Purchase Price;

iv. It fully discloses the identity of each entity that will be offering to purchase the Real Property;

v. It includes an acknowledgement and representation from the Purchaser that: (i) it has had an opportunity to conduct any and all due diligence regarding the Real Property and the Receiver prior to making its offer, (ii) it has relied solely upon its own independent review, investigation, and/or inspection of any documents in making its offer, and (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, regarding the Real Property, the Debtor, or the completeness of any information provided in connection therewith;

vi. Provides a deposit in the amount of not less than 10% of the Purchase Price offered (the “**Deposit**”); and

vii. The offer contemplates closing the transaction within 10 Business Days (the “**Closing Date**”) of the granting of an Approval and Vesting Order by the Court.

32. The Receiver will review and evaluate each offer and: (i) the Receiver may identify the highest bidder/superior offer for the Real Property (the “**Successful Offer**”), or (ii) if no binding offer emerges from the Sale Process, that the Receiver is prepared to recommend to the Court for approval, the Receiver will report on the outcome of the Sale Process and provide its recommendation on next steps.
33. The Receiver is of the view that, in the circumstances, the proposed Sale Process represents the best opportunity to identify a potential sale for the Real Property and to maximize value for the benefit of stakeholders.
34. Other terms of the Sales Process include:
 - a) The sale of the Real Property will be on an “as is, where is” basis without representations or warranties of any kind, nature, or description by the Receiver, or any of its directors, officers, partners, employees, agents, advisors, or estates, except to the extent as may be set forth in a Successful Offer (as defined herein) and approved by the Court.
 - b) By submitting an Offer, each Offeror shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Real Property prior to making its Offer, that it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Real Property in making its bid, and that it did not rely upon any written or oral statements, representations, warranties, or guarantees, express, implied, statutory or otherwise, regarding the Real Property or the completeness of any information provided in connection therewith, except as expressly stated in this Sale Process or as set forth in a Successful Offer and approved by the Court.
 - c) The Receiver shall have the right to deny or limit any parties access to confidential information at any time, which may include denying access to confidential information, if in the Receiver’s sole discretion views such party is not likely to be serious about submitting a bid for the Real Property.

- d) The Receiver makes no representation or warranty as to the information to be provided through this due diligence process or otherwise.
- e) The Receiver shall not be under any obligation to accept the highest or best (or any) offer made, and any selection of the Successful Offer(s) shall be entirely in the discretion of the Receiver. For greater certainty, the Receiver is hereby permitted to decline acceptance of any offer. The Receiver shall make it clear that this proposed sale process is not a tender.

VI. REQUEST FOR A SEALING ORDER

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

VII. PROFESSIONAL FEES AND DISBURSEMENTS

- 36. Attached to this First Report as **Appendix "5"** is the Affidavit of Philip Gennis sworn May 13, 2024, (the "**Receiver's Fee Affidavit**") which incorporates by reference a copy of the Receiver's time dockets pertaining to the receivership of 2743 to and including April 30, 2024 in the amount of \$56,673.30 inclusive of disbursements and HST. This represents a total of 143.21 hours at an average hourly rate of \$342.17 excluding HST
- 37. Attached hereto as **Appendix "6"** to this First Report is the Affidavit of Thomas Masterson sworn May 14, 2024, (the "**Receiver's Counsel Fee Affidavit**") which

incorporates by reference a copy of the time docket of the Receiver's Counsel for the period to and including May 14, 2024, in the amount of \$9,397.23 inclusive of disbursements and HST.

38. The Receiver has reviewed the accounts of the Receiver's Counsel and is of the view that all the work set out in these accounts was carried out and was necessary, that the hourly rates of the lawyers who worked on this matter were reasonable in light of the services required and that the services were carried out by lawyers with the appropriate level of experience.

VIII. RECEIVER'S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

39. Attached hereto as **Appendix "7"** is a copy of the Interim Statement of Receipts and Disbursements of the Receiver as of May 13, 2024.

IX. RECOMMENDATIONS

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

All of which is respectfully submitted.

Dated at Toronto, this 14th day of May 2024

msi Spergel inc.,
solely in its capacity as Court-appointed
Receiver of 2743732 Ontario Inc.
and not in any corporate
or personal capacities

Per:

Mukul Manchanda, CPA, CIRP, LIT
Managing Partner

Appendix 5



SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-23-00698068-00CL

DATE: May 27, 2024

NO. ON LIST: 7

TITLE OF PROCEEDING: **THE TORONTO-DOMINION BANK v. 2743732 ONTARIO
INC. et al**

BEFORE JUSTICE: **JUSTICE CAVANAGH**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
Miranda Spence	Lawyer for The Toronto-Dominion Bank	mspence@airdberlis.com
Timothy C. Hogan	Lawyer for the Receiver, msi Spergel Inc.	thogan@harrisonpensa.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Philip Gennis	Receiver	pgennis@spergel.ca
Joel Senecal	Lawyer for tenant, Steve's Premiere	jsenecal@tremblaylawgroup.ca

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ENDORSEMENT OF JUSTICE CAVANAGH:

msi Spergel Inc., in its capacity as court-appointed Receiver of the Property (as defined in the motion materials) of the Respondent 2743732 Ontario Inc. (the “Debtor”) brings this motion for the following relief:

(a) an order approving the First Report of the Receiver dated May 14, 2024 and the activities and conduct of the Receiver set out therein;

(b) an order approving the Receiver’s Interim Statement of Receipts and Disbursements as detailed in the First Report;

(c) an order authorizing and directing the Receiver to execute a Listing Agreement between the Receiver and Avison Young Commercial Real Estate Services LP Brokerage (“Avison”) and Malette Goring Inc., Brokerage (“Malette”) (together, the Listing Brokers”) for the sale of the Real Property (as defined in the motion materials) and to take such steps as the Receiver deems necessary or advisable to carry out the terms thereof;

(d) an order authorizing and directing the Receiver, with the Listing Brokers as its real estate consultants, to carry out the sale process as described in the First Report and to take such steps and execute such documents as the Receiver considers necessary or desirable in carrying out its obligations thereunder, subject to prior approval of this Court being obtained before completion of any transaction under the Sale Process;

(e) an order sealing the Confidential Appendices to the First Report until completion of the Sale Process and the sale of the Real Property, or until further order of this Court; and

(f) an order for certain ancillary relief, including approval of the fees and disbursements of the Receiver and its legal counsel.

This motion is not opposed.

The Receiver obtained listing proposals from Avison and Malette Goring in relation to the Real Property. Following a review of the listing proposals, the Receiver recommends and requests that it be authorized to retain both listing brokers and to enter into a listing agreement with them to market the Real Property. I accept the Receiver’s recommendation for the reasons set out in its report and summarized in its factum at paragraph 9.

The Receiver recommends approval of the proposed Sale Process because (a) it is a fair, open and transparent sale process; and (b) it is intended to canvass the market on an efficient basis to interested parties. I am satisfied that a sale process should be approved at this time. In reaching this conclusion, I have considered (a) whether the sale transaction is warranted at this time; (b) the sale will benefit the “economic community”; (c) whether creditors have a *bona fide* reason to object to the sale of the business or assets; and (d) whether there is a better viable alternative. I am satisfied that the sale process recommended by the Receiver should be approved. In this respect, I accept the submissions of the Receiver at paras. 23-27 of its factum.

I am satisfied that the Confidential Appendices which contain sensitive information, the release of which prior to the completion of the sale of the Real Property could be prejudicial to the stakeholders of the

Debtor, should be sealed according to the terms of the requested order. The test in *Sherman Estate v. Donovan*, 2021 SCC 25, at paragraph 38, is satisfied.

Order to issue in form of Order signed by me today.

Appendix 6

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

THE HONOURABLE

)

MONDAY, THE 27TH

JUSTICE

)

DAY OF MAY, 2024

)

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

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

Respondents

ORDER

THIS MOTION, made by msi Spergel inc., in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertakings, property and assets of 2743732 Ontario Inc. (the "**Debtor**") appointed pursuant to the Order of the Honourable Justice Steele dated May 15, 2023, for an order, among other things, approving the execution of the Listing Agreement, as defined below, with the Brokers, as defined below, and the approving of the Sale Process, and for other related relief, was heard this day by judicial videoconference via Zoom at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion dated May 15, 2024, the First Report of the Receiver dated May 14, 2024 (the "**First Report**"), and on hearing the submissions of counsel for the Receiver and all other counsel and parties present, as properly served as appears from the affidavit of service of Isabelle Stacey sworn May 15, 2024, filed;

SERVICE

1. **THIS COURT ORDERS** that the time for service, filing and confirmation of the Notice of Motion and the Motion Record be and is abridged so that this motion is properly returnable today and hereby dispenses with further service and confirmation hereof.

CAPITALIZED TERMS

2. **THIS COURT ORDERS** that capitalized terms not defined herein, shall have the meanings ascribed thereto in the First Report.

REPORT AND ACTIVITIES OF THE RECEIVER

3. **THIS COURT ORDERS** that the First Report and the activities and conduct of the Receiver as detailed therein, be and are approved; provided however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

STATEMENT OF RECEIPTS AND DISBURSEMENTS

4. **THIS COURT ORDERS** that the Receiver's Interim Statement of Receipts and Disbursements as detailed in the First Report, are hereby approved.

SALE PROCESS

5. **THIS COURT ORDERS** that the Receiver is authorized and directed to execute a Listing Agreement on terms acceptable to the Receiver (the "**Listing Agreement**") between the Receiver and Avison Young Commercial Real Estate Services LP, Brokerage and Malette Goring Inc., Brokerage (collectively, the "**Brokers**") for the sale of the real property owned by the Debtor and known municipally as 162 Front Street, Sturgeon Falls, Ontario and legally described as PT LT 3 CON 1 SPRINGER PT 4 – 6 36R6873 SRO & PT 4 – 6 36R7620; WEST NIPISSING ; DISTRICT OF NIPISSING (PIN 49080-0692 LT) (the "**Real Property**"), and to take such steps as the Receiver deems necessary or advisable to carry out the terms thereof.
6. **THIS COURT ORDERS** that the Receiver is authorized and directed, with the Brokers as its real estate consultants, to carry out the Sale Process, as described in the First Report, and is hereby authorized and directed to take such steps and execute such documentation

as the Receiver considers necessary or desirable in carrying out its obligations thereunder, subject to prior approval of this Court being obtained before completion of any transaction under the Sale Process.

7. **THIS COURT ORDERS** that the Receiver and its affiliates, partners, directors, employees, advisers, agents, counsel and controlling persons (collectively, the “**Assistants**”) shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of performing their duties under the Sale Process, except to the extent of such losses, claims, damages or liabilities arising or resulting from the gross negligence or willful misconduct of the Receiver, as determined by this Court.
8. **THIS COURT ORDERS** that the Receiver may apply to this Court to amend, vary or supplement this Order, or for advice and directions with respect to the discharge of its powers and duties under this Order, or under the Sale Process, at any time during the term of the Sale Process.

SEALING

9. **THIS COURT ORDERS** that the Confidential Appendices to the First Report be and are hereby sealed, pending the completion of a court-approved sale of the Real Property, or until further Order of this Court.

FEE APPROVAL

10. **THIS COURT ORDERS** that the Receiver’s fees and disbursements, as detailed in the First Report and set out in set out in the Affidavit of Philip Gennis, sworn May 13, 2024 and attached as Appendix “5” to the First Report, are hereby approved.
11. **THIS COURT ORDERS** that the Receiver’s counsel’s fees and disbursements, as detailed in the First Report and set out in set out in the Affidavit of Thomas Masterson, sworn May 14, 2024 and attached as Appendix “6” to the First Report, are hereby approved.

PIPEDA

12. **THIS COURT ORDERS** that pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada), the Receiver and its Assistants are hereby authorized and permitted to disclose and deliver for review personal information of

identifiable individuals to prospective purchasers or bidders for the Real Property and their advisors, but only to the extent desirable or required to carry out the Sale Process and to negotiate or attempt to complete a transaction pursuant to the Sale Process (a “**Transaction**”). Each prospective purchaser or bidder (and their respective advisors) 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 for the purpose of effecting a Transaction, and if it does not complete a Transaction, shall return all such information to the Receiver, or in the alternative destroy all such information and provide confirmation of its destruction if required by the Receiver. The purchaser(s) of any of the Real Property shall maintain and protect the privacy of such information and, upon closing of the Transaction(s) to which any such purchaser is a party, shall be entitled to use the personal information provided to it that is related to the Real Property acquired pursuant to the Sale Process in a manner that is in all material respects identical to the prior use of such information by the Debtor and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed and provide confirmation of its destruction if requested by the Receiver.

GENERAL

13. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, or any other jurisdiction, 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, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.
14. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Toronto time on the date of this Order, and this Order is enforceable without the need for entry and filing.

Justice, Ontario Superior Court of Justice
(Commercial List)

THE TORONTO-DOMINION BANK

v.

2743732 ONTARIO INC., et al.

Applicant

Respondents

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

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

PROCEEDING COMMENCED AT
TORONTO, ONTARIO

ORDER

HARRISON PENZA LLP

Barristers & Solicitors
130 Dufferin Avenue, Suite 1101
London, Ontario N6A 5R2

Timothy C. Hogan (LSO #36553S)

Tel : (519) 679-9660
Fax: (519) 667-3362
Email: thogan@harrisonpensa.com

Lawyers for the Receiver,
msi Spergel inc.

Appendix 7

Listing Agreement - Commercial

Seller Representation Agreement

Authority to Offer for Sale

Form 520
for use in the Province of Ontario

This is a Multiple Listing Service® Agreement



BETWEEN: Avison Young Commercial Real Estate Services, LP and Mallette-Goring Inc.
BROKERAGE:

..... (the "Listing Brokerage") Tel. No. 416-955-0000 / 705-673-3000

SELLER: msi Spergel Inc., solely in its capacity as Receiver and manager, without security, of all the assets, undertakings, and properties of 2743732 Ontario Inc. (the "Seller")

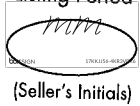
In consideration of the Listing Brokerage listing the real property for sale known as 162 Front Street, Sturgeon Falls, Ontario [See Schedule "A" for Legal Description]

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

commencing at on the day of June, 2024,

and expiring at 11:59 p.m. on the 15th day of November, 2024,

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



to offer the Property for sale at a price of: Dollars (CDN\$) unpriced unless otherwise directed by the Seller in writing

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.



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

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

2. COMMISSION: In consideration of the Listing Brokerage listing the Property, the Seller agrees to pay the Listing Brokerage a commission of 5.00% of the sale price of the Property or [See Schedule "B"]



~~The Seller authorizes the Listing Brokerage to co-operate with any other registered real estate brokerage (co-operating brokerage) and to offer to pay the co-operating brokerage a commission of 2.00% of the sale price of the Property or [See Schedule "B"]~~



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 45 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 if such agreement is completed by an agreement to purchase agreed to or accepted by the Seller or anyone on the Seller's behalf within 45 days after the expiration of 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.~~

INITIALS OF LISTING BROKERAGE:



INITIALS OF SELLER(S):



JA
CF
mm

Any deposit in respect of any agreement to purchase the Property that has been completed shall first be applied to reduce the commission payable. Should there be any amount left over, the Listing Brokerage shall be entitled to the deposit. If the Seller is not satisfied with the offer, the Seller shall be liable to pay to the Listing Brokerage on demand, any deficiency in commission and to pay the balance of the deposit. In the event the buyer fails to complete the purchase and the deposit or any part thereof becomes forfeited, awarded, directed or released to the Seller, the Seller then authorizes the Listing Brokerage to retain as commission for services rendered, fifty (50%) per cent of the amount of the said deposit forfeited, awarded, directed or released to the Seller (but not to exceed the commission payable had a sale been consummated) and to pay the balance of the deposit to the Seller. All amounts set out as commission are to be paid plus applicable taxes on such commission.

3. REPRESENTATION: The Seller acknowledges that the Listing Brokerage has provided the Seller with written information explaining relationships, including information on Seller Representation, Sub-agency, Buyer Representation, Multiple Representation and Self-Represented Party assistance. The Seller understands that unless the Seller is otherwise informed, the co-operating brokerage is representing the interests of the buyer in the transaction. The Seller further acknowledges that the Listing Brokerage may be listing other properties that may be similar to the Seller's Property and the Seller hereby consents to the Listing Brokerage listing other properties that may be similar to the Seller's Property without any claim by the Seller of conflict of interest. The Seller hereby appoints the Listing Brokerage as the Seller's agent for the purpose of giving and receiving notices in respect of the Property. Unless otherwise agreed in writing between Seller and Listing Brokerage, any commission payable to any other brokerage shall be paid out of the commission the Seller pays the Listing Brokerage, said commission to be disbursed in accordance with the Commission Trust Agreement.

MULTIPLE REPRESENTATION: The Seller hereby acknowledges that the Listing Brokerage may be entering into buyer representation agreements with buyers who may be interested in purchasing the Seller's Property. In the event that the Listing Brokerage has entered into or enters into a buyer representation agreement with a prospective buyer for the Seller's Property, the Listing Brokerage will require the Seller's written consent to represent both the Seller and the buyer for the transaction. The Seller understands and acknowledges that the Listing Brokerage must be impartial when representing both the Seller and the buyer and equally protect the interests of the Seller and buyer. The Seller understands and acknowledges that when representing both the Seller and the buyer, the Listing Brokerage shall have a duty of full disclosure to both the Seller and the buyer.

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

- that the Seller may or will accept less than the listed price, unless otherwise instructed in writing by the Seller;
- that the buyer may or will pay more than the offered price, unless otherwise instructed in writing by the buyer;
- the motivation 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, unless otherwise directed in writing by the Seller.

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

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

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

4. FINDERS FEES: The Seller acknowledges that the Brokerage may be acting as a finder for a party who is not a party to this Agreement, and the Seller consents to any such fee being assessed and retained by the Brokerage against the Commission as described above.

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

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

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

8. INDEMNIFICATION AND INSURANCE: The Seller will not hold the Listing Brokerage and representatives of the Brokerage responsible for any 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 those in or under the Listing Brokerage's control. The Seller agrees to indemnify and hold 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 Seller's gross negligence or intentional or negligent misrepresentation made by the Seller in this Agreement, if attached, the accompanying data form. The Seller warrants the Property is insured, including personal liability insurance against any claims or lawsuits resulting from bodily injury or property damage to others caused in any way on or at the Property and the Seller indemnifies the Brokerage and all of its employees, representatives, salespersons and brokers (Listing Brokerage) and any co-operating brokerage and all of its employees, representatives, salespersons and brokers (co-operating brokerage) for and against any claims against the Listing Brokerage or co-operating brokerage made by anyone who attends or visits the Property.

9. ENVIRONMENTAL INDEMNIFICATION: The Seller agrees to indemnify and hold harmless the Listing Brokerage and representatives of the Brokerage and any co-operating brokerage from any liability, claim, loss, cost, damage or injury, caused or contributed to by the Seller's gross negligence or intentional or negligent misrepresentation made by the Seller in this Agreement, if attached, the accompanying data form.

10. FAMILY LAW ACT: The Seller hereby represents that the present sale of the Property is not subject to the provisions of the Family Law Act, R.S.O. 1990, unless the spouse of the Seller has consented to the present sale as provided.

INITIALS OF LISTING BROKERAGE:

JA
CF
mm

INITIALS OF SELLER(S):

JA
CF
mm

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

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

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

consent to allow other real estate board members to contact the Seller after expiration or other termination of this Agreement to discuss listing or otherwise marketing the Property.
 Does
 Does Not

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

THE LISTING BROKERAGE 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.

Joe Almeida
Chris Tammi
May 28, 2024
Joe Almeida
Chris Tammi

(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 any accompanying data form respecting the Property are true to the best of my knowledge, information and belief.

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

msi Spergel Inc., solely in its capacity as Receiver and manager, without security, of all the assets, undertakings, and properties of 2743732 Ontario Inc.

(Name of Seller)
May 29, 2024

(Signature of Seller/Authorized Signing Officer)
(Seal)
(Date)
(Tel. No.)

(Signature of Seller/Authorized Signing Officer)
(Seal)
(Date)
(Tel. No.)

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

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

DECLARATION OF INSURANCE

The Salesperson/Broker/Broker of Record Kelly Avison Chris Tammi

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

Chris Tammi

(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 29th day of May, 2024.

(Signature of Seller)
May 29, 2024

(Signature of Seller)
(Date)

SCHEDULE "A"

TO A LISTING AGREEMENT BETWEEN:

Avison Young Commercial Real Estate Services, LP and Mallette-Goring Inc. (collectively the "**Listing Brokerage**") AND msi Spergel Inc. (the "**Seller**"), solely in its capacity as Receiver and manager, without security, of all assets, undertakings and properties of 2743732 Ontario Inc. (the "**Debtor**").

Municipal Address of Property: 162 Front Street, Sturgeon Falls, Ontario
(the "**Property**")

Legal Description of Property:

a) PT LT 3 CON 1 SPRINGER PT 4-6, 36R6873 SRO & PT 4-6 36R7620; WEST
NIPISSING; DISTRICT OF NIPISSING;

P.I.N.: 49080-0692 (LT)

<u>Seller's Initials</u>		<u>Listing Brokerage's Initials</u>	
<i>mm</i>		<i>JA</i>	<i>CT</i>
<small>box sign</small>	<small>4908080-0692</small>	<small>box sign</small>	<small>4908080-0692</small>

SCHEDULE "B"

**attached to and forming an integral part of Ontario Real Estate
Association MLS® Listing Agreement Form 520 (Revised 2024) between:**

Avison Young Commercial Real Estate Services, LP and Mallette-Goring Inc.
(collectively the "**Listing Brokerage**") AND msi Spergel Inc. (the "**Seller**"), solely in its
capacity as Receiver and manager, without security, of all assets, undertakings and
properties of 2743732 Ontario Inc. (the "**Debtor**").

1. The following terms and conditions replace, modify, and where applicable override the terms of the Ontario Real Estate Association MLS® Listing Agreement Form 520 (the "**Listing Agreement**") to which this Schedule B is attached.
2. The Seller is authorized to take possession of and sell the assets, property and undertakings of 2743732 Ontario Inc., including the Property and personal property related thereto, and to enter into this Listing Agreement pursuant to the order of The Honourable Justice Steele dated May 15, 2024 (the "**Receivership Order**"), issued in the Ontario Superior Court of Justice Court CV-23-00698068-00CL.
3. For greater certainty, where a conflict or discrepancy between the terms of the Listing Agreement and this Schedule B arises, the terms of this Schedule B shall prevail.
4. Unless otherwise defined herein, all capitalized terms used herein have the meanings ascribed thereto in the Listing Agreement.
5. The Listing Agreement and, subject to Section 14 of this Schedule B, the Listing Brokerage's exclusive and irrevocable right to act as the Seller's agent shall commence on June _____, 2024 (the "**Commencement Date**") and expire on November 15th, 2024 or the date of earlier termination in accordance with Section 14 of this Schedule B (the "**Listing Period**"), subject to any extensions as may be agreed upon in writing between the Seller and the Listing Brokerage from time to time.
6. If applicable, the Listing Brokerage shall market the Property for sale in accordance with the process and the requirements set out in the First Report of the Receiver (the "**First Report**") dated _____, 2024 filed in the Receivership Proceedings, as amended or supplemented (the "**Sale Process**"). Without limiting the generality of the foregoing, the Listing Brokerage shall:
 - a. subject to Section 13 of this Schedule B, prepare and distribute marketing materials to prospective purchasers, and list the Property on the Multiple Listing Service (MLS) inviting prospective purchasers to express their interest in making an offer in respect of the Property;
 - b. set up an electronic data room (the "**Data Room**") and upload the Property documents and other information in respect of the Property approved by the Seller;
 - c. ensure that each prospective purchaser executes and delivers a non-disclosure agreement (the "**NDA**") on the Seller's preferred form prior to providing access to the Data Room (or any other information in respect of the Property);
 - d. following the execution of each NDA, take all steps necessary to assist the Seller in determining if a prospective purchaser has a *bona fide* interest in pursuing the purchase of the Property (a "**Qualified Bidder**");
 - e. prepare, in consultation with the Seller, a detailed marketing brochure (the "**Brochure**"), which will provide, among other things, information considered relevant to the Property, and send the Brochure to each Qualified Bidder;
 - f. make it clear to all prospective purchasers that:
 - i. the Property is being offered for sale by the Seller as a Court-appointed Receiver;
 - ii. the Property is being offered on an "as is, where is" basis, without recourse to, nor any indemnity offered whatsoever by, the Receiver;

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Seller's Initials		Listing Brokerage's Initials	
MM		JA	OT

- iii. the sale of the Property is subject to the final approval of the Court; and
 - iv. the transfer of title will be effected by an order of the Court;
- g. arrange for on-site inspections and/or provision of additional information that is reasonably requested by Qualified Bidders, subject to the prior written approval of the Seller;
 - h. require Qualified Bidders to submit their offer in the Seller's form of Agreement of Purchase and Sale (to be available in the Data Room) along with a deposit transferred to the Seller's trust account via wire transfer on or before the bid deadline stipulated by the Seller; and
 - i. take all other steps reasonably necessary to complete the Sale Process and enable the Seller to identify the Successful Bid (as defined in the First Report).
7. Notwithstanding any other provision contained in this Listing Agreement, the Seller shall only be liable to pay the commission provided for in the Listing Agreement if the transaction contemplated herein:
- a. is completed (a "Transaction"); or
 - b. if the Transaction is not completed due to the registered first charge to The Toronto Dominion Bank ("TD") being transferred or sold to a third party resulting in the Seller's appointment as receiver being terminated; or
 - c. if the Debtor successfully refinances the TD charge or redeems the Property on or before completion of the Transaction resulting in the Seller's appointment as receiver being terminated;

in each case subject to Court Approval as hereinafter defined.

The Listing Brokerage acknowledges that the sale is taking place pursuant to the Receivership Order, and that an approval and vesting order by the Court, which order shall (1) approve the agreement of purchase and sale with the successful purchaser of the Property, and (2) vest title in and to the Property in the successful purchaser, free and clear of all encumbrances upon closing (subject to permitted encumbrances) in the Receivership Proceedings ("Court Approval"), is a pre-condition to completion of any Transaction. The Seller cannot guarantee that Court Approval for any such Transaction will be obtained. The Listing Brokerage also acknowledges that the prospective purchaser of the Property may include in the agreement of purchase and sale certain conditions which the Seller is required to fulfil prior to closing (collectively, "Conditions") including, without limitation, the delivery of vacant possession. The fulfilment of such Conditions by the Seller cannot be guaranteed. The parties agree that no commission shall be payable if a Transaction is not completed because Court Approval is not obtained or if the Conditions are not met or are impracticable to meet.

8. It is further understood and agreed that the Listing Brokerage shall offer the Property for sale on an "as is, where is" basis and that the Listing Brokerage 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. Any purchaser will be required to satisfy itself as to the state of the Property and other purchased assets, matters of title and any other matter or potential matter related thereto or any other matter related to the Property and any other purchased assets.
9. Notwithstanding any other provision of this Listing Agreement, the Seller makes no representations or warranties regarding the Property, the condition of the Property, the existence of any insurance or its ability to enter into this listing agreement nor does the Seller provide the Listing Brokerage with any indemnification regarding any such matters.
10. The Seller shall not be liable to pay the Listing Brokerage any fee or commission other than as set out in Section 2 of the Listing Agreement, and shall not be liable to reimburse the Listing Brokerage for any cost or expense incurred by the Listing Brokerage in carrying out its obligations under the Listing Agreement, including, without limitation, any costs and expenses related to compensation payable to any other broker, agent or third party, and costs and expenses relating to carrying out the duties and obligations of the Listing Brokerage.

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Seller's Initials	Listing Brokerage's Initials	
MM	JA	OT

11. The Listing Brokerage shall act strictly in accordance with such instructions and policies as from time to time may be communicated by the Seller to the Listing Brokerage, and shall at all times keep the Seller fully informed of its marketing activities.
12. Section 2 of the Listing Agreement is hereby amended by adding the following at the end thereof:
 - a. "Within seven (7) days after the expiration of the Listing Period, the Listing Brokerage shall provide the Seller with a list of prospective purchasers with whom the Listing Brokerage is actively engaged in discussions for the sale of the Property (the "**Reserved Purchasers**"). Unless this Agreement is terminated pursuant to Section 14 of Schedule B hereto, in the event that title to the Property is unconditionally transferred to a Reserved Purchaser pursuant to an agreement of purchase and sale (the "**Reserved Purchaser Sale Agreement**") executed within thirty (30) days after the expiry of the Listing Period (the "**Holdover Period**"), then, commission in respect of the Reserved Purchaser Sale Agreement shall be earned, due and payable in accordance with this Section 2 upon closing of such sale pursuant to the Reserved Purchaser Sale Agreement. The Seller shall otherwise have no obligation to pay any commission or any other fee to the Listing Brokerage or any person claiming under the Listing Brokerage following the expiry of the Listing Period. The Listing Brokerage agrees to continue to assist the Seller at all times in order to attempt to complete the transactions contemplated by all Reserved Purchaser Sale Agreements. Upon request by the Seller, the Listing Brokerage shall provide supporting information outlining the work that the Listing Brokerage has completed with the parties that are named on the list of Reserved Purchasers."
13. Section 6 of the Listing Agreement is hereby amended by adding the following at the end thereof:
 - a. "All materials with respect to the marketing of the Property (including, without limitation, online and physical advertising and/or promotional content, signs and plans) shall be prepared by the Listing Brokerage, at its sole cost and expense, in accordance with the Seller's design criteria (as applicable) and any other criteria as the Seller may require, and all such materials shall be subject to the prior written approval of the Seller."
14. Notwithstanding anything contained in the Listing Agreement, the Listing Agreement may be terminated by the Seller if the Listing Brokerage: (i) is in default of any of its duties as set out in the Listing Agreement or this Schedule B; or (ii) becomes bankrupt or insolvent or makes a general assignment for the benefit of its creditors or if a receiver is appointed because of its insolvency. For greater certainty, no commission shall be payable to the Listing Brokerage pursuant to Section 2 of the Listing Agreement in the event the Seller terminates the Listing Agreement in accordance with this Section 14.
15. The Listing Brokerage assumes no responsibility and the Seller will not hold the Listing Brokerage, representatives of the Listing Brokerage nor any cooperating brokerage liable for any claim, loss, cost, damage or injury in connection with or attributable to the Property or its condition, except to the extent caused by the gross negligence or wilful misconduct of the Listing Brokerage or its representatives. The Seller shall acquire and maintain during the term of this Agreement, insurance coverage on such terms and in such amounts as the Seller deems appropriate in respect of the Property, including personal liability insurance against any claims resulting from bodily injury or property damage occurring on or at the Property.
16. Any prospective purchaser agrees to use the Seller's form of Agreement of Purchase and Sale which will be provided by the Listing Brokerage to such prospective purchaser.

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Seller's Initials	Listing Brokerage's Initials	
<i>MM</i>	<i>JA</i>	<i>OT</i>

Appendix 8

AMENDMENT TO AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT (this "**Agreement**") dated as of the 29th day of January, 2025.

BETWEEN:

MSI SPERGEL INC., in its capacity as Court-appointed receiver of the assets, undertakings and properties of **2743732 ONTARIO INC.** and not in its personal or corporate capacity and without personal or corporate liability.

(the "**Vendor**")

OF THE FIRST PART

- and -

1395559 ONTARIO INC.

(the "**Purchaser**")

OF THE SECOND PART

WHEREAS

- A. The Purchaser and the Vendor previously entered into an agreement of purchase and sale dated September 20, 2024 (the "**Purchase Agreement**") pursuant to which the Vendor agreed to sell and the Purchaser agreed to purchase the Purchased Assets, in accordance with the terms and conditions set out in the Purchase Agreement.
- B. The Purchaser and Vendor have now agreed to execute and deliver this Agreement for the purpose of amending certain terms of the Purchase Agreement 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. Unless otherwise defined herein, all capitalized terms used in this Agreement shall have the respective meanings ascribed to them in the Purchase Agreement.
2. The Purchase Price shall be reduced by \$ [REDACTED] so that the Purchase Price shall be the sum of [REDACTED].

3. The Date of Closing shall be ten (10) Business Days following the date upon which the time to appeal the Approval and Vesting Order has expired or, in the event that an appeal from the Approval and Vesting Order is filed, the tenth (10th) Business Day following the final dismissal of the appeal, unless the parties otherwise agree to such other date in writing.
4. In the event of a conflict between the terms of the Purchase Agreement and the terms of this Agreement, the terms of this Agreement shall govern and prevail. Except as specifically provided herein, all other terms of the Purchase Agreement shall remain in full force and effect and unamended and time shall remain of the essence.
5. This Agreement may be executed by electronic means and in counterparts, each of which shall be deemed an original and which, taken together, shall constitute one and the same instrument. This Agreement may be delivered by fax or e-mail transmission and the parties shall adopt any signature received by a receiving fax or e-mail as original signatures of the parties.

IN WITNESS WHEREOF the Parties have executed this Agreement as evidenced by their properly authorized officers as of the day and year first above written.

1395559 ONTARIO INC.

By:  _____
Name: _Michel Renaud
Title: _President

I have authority to bind the Corporation.

MSI SPERGEL INC., in its capacity as Court-Appointed Receiver of the assets, undertakings and properties of 2743732 Ontario Inc. and not in its personal or corporate capacity and without personal or corporate liability

By:  _____
Name: Mukul Manchanda
Title: Managing Partner

I have authority to bind the Corporation.

Mm
box sign 1783036-4289297

AGREEMENT OF PURCHASE AND SALE

Mm
box sign 1783036-4289297

THIS AGREEMENT dated as of the 20th September ~~1st~~ ~~August~~ day of August, 2024.

BETWEEN:

MSI SPERGEL INC., in its capacity as Court-appointed receiver of the assets, undertakings and properties of **2743732 ONTARIO INC.** and not in its personal or corporate capacity and without personal or corporate liability.

(the "Vendor")

OF THE FIRST PART

- and -

1395559 ONTARIO 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 Court issuing the Approval and Vesting Order, the Purchaser has agreed to purchase from the Vendor, and the Vendor has agreed to sell to the Purchaser, the right, title, and interest of the Debtors 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:

- (a) "**Act**" means, for purposes of Section 19 hereof only, the *Excise Tax Act* (Canada);
- (b) "**Agreement**" means this agreement of purchase and sale, together with the attached schedules;
- (c) "**Approval and Vesting Order**" means an order of the Court substantially in the form of the template Approval and Vesting Order for use on the Commercial List of the Court approving the transaction provided for in this Agreement and ordering that the Debtor's right, title and interest in the Purchased Assets be vested in the Purchaser free and clear of encumbrances except for Permitted Encumbrances upon satisfaction by the Purchaser of its obligations under this Agreement, a draft of which is attached hereto at Schedule "D";
- (d) "**Assignment of Contracts**" means an assignment and assumption of the right, title and interest and obligations of the Debtor in the Assumed Contracts to the Purchaser in the form mutually agreed upon between the Vendor and the Purchaser, each acting reasonably;
- (e) "**Buildings**" means the buildings situate on the Lands, including all improvements thereto and all fixtures forming a part thereof;
- (f) "**Business Day**" means any day other than a Saturday or a Sunday or a statutory holiday in the Province of Ontario;
- (g) "**Closing**" shall have the meaning ascribed to it in Section 9 hereof;
- (h) "**Closing Adjustments**" shall have the meaning ascribed to it in Section 7(a) hereof;
- (i) "**Closing Documents**" means the Vendor's closing deliveries and the Purchaser's Closing deliveries together as set forth in Sections 16 and 17 hereof;
- (j) "**Court**" means the Ontario Superior Court of Justice (Commercial List);
- (k) "**Damages**" shall have the meaning ascribed to it in Section 17(i) hereof;
- (l) "**Date of Closing**" shall have the meaning ascribed to it in Section 9 hereof;
- (m) "**Debtor**" means 2743732 Ontario Inc.;
- (n) "**Deposit**" shall have the meaning ascribed to it in Section 6(a) hereof;
- (o) "**DRA**" shall have the meaning ascribed to it in Section 10(a)(i) hereof;

- (p) **“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;
- (q) **“Environmental Law”** means 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, including, without limitation, the *Environmental Protection Act* (Ontario), as amended;
- (r) **“ETA Election”** shall have the meaning ascribed to it in Section 19(c) hereof;
- (s) **“Excluded Assets”** means the following assets, property, rights, and interests of the Debtor:
- (i) all cash on hand, bank deposits, guaranteed investment certificates, securities and other similar cash or cash equivalent items;
 - (ii) all notes receivable and other debts due or accruing due to the Debtor, whether or not related to the Business;
 - (iii) all prepaid expenses not related to the Business;
 - (iv) all income tax refunds, HST refunds and all other tax refunds and amounts that may be due to the Debtor from Canada Revenue Agency or any provincial tax authorities;
 - (v) all corporate records, minute books, tax records and returns, and other records having to do with the corporate organization of the Debtor;
 - (vi) any goods and chattels located on the Lands and owned by a third party; and
 - (vii) all information and materials in electronic and physical form of the Debtor not specifically related to or used in connection with the Business.

- (t) **"Government Authority"** means any person, body, department, bureau, agency, board, tribunal, commission, branch, or office of any federal, provincial, or municipal government having or claiming to have jurisdiction over part or all of the Purchased Assets, the transaction contemplated in this Agreement and/or one or both of the parties hereto and shall include a board or association of insurance underwriters;
- (u) **"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;
- (v) **"HST"** shall have the meaning ascribed thereto in Section 19(a) hereof;
- (w) **"ICA"** shall have the meaning ascribed thereto in Section 13(f) hereof;
- (x) **"Lands"** means the lands and premises municipally known as 162 Front Street, Sturgeon Falls, Ontario as legally described on **Schedule "A"** hereto;
- (y) **"Material Damage"** shall have the meaning ascribed to it in Section 11 hereof;
- (z) **"Permitted Encumbrances"** means the encumbrances listed in **Schedule "B"** hereof;
- (aa) **"Potential Tenancies"** means any tenants which may be located on or residing at the lands pursuant to leases with the Debtor, as well as any such leases governing the relationship between such tenants and the Debtor;
- (bb) **"Purchase Price"** shall have the meaning ascribed thereto in Section 6 hereof;
- (cc) **"Purchased Assets"** means, collectively:
- (i) The Lands;
 - (ii) The Buildings;
 - (iii) The Rights.

and the interest of the Debtor in same;

- (dd) **"Purchaser"** means 1395559 Ontario Inc.;
- (ee) **"Purchaser's Solicitor"** means Andrea Bain;
- (ff) **"Receivership Order"** means the order of the Honourable Justice Steele dated the 15th day of May 2023 in the receivership proceeding of the Debtor whereby the Vendor was appointed receiver of the assets, undertakings, and properties of the Debtor;
- (gg) **"Registry Office"** shall have the meaning ascribed to it in Section 10(a) hereof;
- (hh) **"Rights"** means the right, title, and interest, if any, of the Debtor in all benefits, advantages, licences, guarantees, warranties, indemnities, income, rents, and options relating to the Land and the Buildings;
- (ii) **"TERS"** shall have the meaning ascribed to it in Section 10(a) hereof;
- (jj) **"Vendor"** means msi Spergel Inc., in its capacity as Court-appointed receiver of the assets, undertakings and properties of the Debtor and not in its personal or corporate capacity and without personal or corporate liability; and
- (kk) **"Vendor's Solicitors"** means the firm of Harrison Pensa LLP.

2. **SCHEDULES**

The following Schedule are appended to this Agreement:

Schedule "A"	Legal Description of Lands
Schedule "B"	Permitted Encumbrances
Schedule "C"	Approval and Vesting Order (Draft)
Schedule "D"	Buyer Lawyer Review

3. **NATURE OF TRANSACTION**

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

4. **OBLIGATIONS EXCLUDED**

The Purchaser is not assuming and shall not be responsible for any liabilities or obligations of the Debtor other than those liabilities and obligations arising from the Purchased Assets and Assumed Contracts.

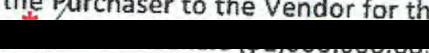
5. **EXCLUDED ASSETS**

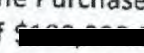
- (a) The Vendor is not selling, and the Purchaser is not purchasing the Excluded Assets, all of which are excluded from the Purchased Assets and the purchase and sale hereunder.
- (b) If any of the Excluded Assets or any proceeds thereof shall at any time come into the possession of or under the control of the Purchaser, such assets and/or proceeds shall be held by the Purchaser, in trust for the benefit of the Vendor. Upon the Purchaser becoming aware that it has come into possession of such assets and/or proceeds, the Purchaser shall forthwith so advise the Vendor in writing of same and shall, if so, requested by the Vendor, account and deliver over to the Vendor, at the Vendor's cost, any such assets and/or proceeds.

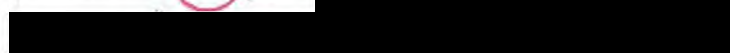
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6. **PURCHASE PRICE**

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

- (a) **Deposit:** The Vendor acknowledges receipt from the Purchaser prior to the date of this Agreement of a deposit in the principal amount of  (the "Deposit"), which sum shall be held by the Vendor, in trust, as a deposit pending Closing or termination of this Agreement. Subject only to the terms of this Agreement, the Deposit is to be credited on account of the Purchase Price upon completion of the transaction contemplated in this Agreement. If this Agreement is not completed due to the Purchaser's default, then the Vendor, in addition to any other remedies that it may have, shall be entitled to retain the Deposit as liquidated damages and not as a penalty. If this Agreement is terminated for any reason whatsoever other than the default of the Purchaser, the Deposit shall be returned to the Purchaser forthwith, without interest or deduction, and the Purchaser shall have no recourse against the Vendor and this Agreement shall become null and void.
- (b) **Balance Due at Closing:** the balance of the Purchase Price, net of the Deposit and subject to the adjustments contained in this Agreement, 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.







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7. **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 commercial properties in Ontario. The Date of Closing shall be for the account of the Purchaser. The Vendor shall not be required to re-adjust after closing any item on or omitted from the statement of adjustments.
- (b) **Reduction in Property Taxes**: The Purchaser acknowledges and agrees that the Vendor shall be entitled to the benefit of any reduction in the property taxes payable with respect to the Lands for the period prior to the Closing Date. To the extent that the Purchaser receives any amounts from the applicable municipality in respect of any reduction of property taxes relating to the period prior to the Date of Closing, the Purchaser shall forthwith forward such amounts to the Vendor.

8. **TERMS OF PURCHASE**

- (a) **"As Is, Where Is"**: The Purchaser acknowledges that the Vendor is selling and the Purchaser is purchasing the Purchased Assets on an "as is, where is" basis subject to whatever defects, conditions, impediments, Hazardous Materials or deficiencies which may exist on the Date of Closing, including, without limiting the generality of the foregoing, any latent or patent defects in the Purchased Assets and such defects as may be revealed in the Vendor's Deliveries. The Purchaser further acknowledges that it has entered into this Agreement on the basis that the Vendor does not guarantee title to the Purchased Assets, 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 regarding 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, 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 same save and except as expressly provided for in this Agreement. Without limiting the generality of the foregoing, 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 its purchase of the Purchased Assets shall be entirely at the Purchaser's risk, that the Purchaser shall assume all liabilities, including environmental liabilities, and that the Purchaser 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 all risks relating to the physical condition of the Purchased Assets which existed on or prior to the Closing Date. Neither the Purchaser nor any permitted occupant of the Lands shall have any recourse to the Vendor because of the nature or condition of the Purchased Assets. This section shall not merge on Closing and is deemed incorporated by reference into all Closing documents and deliveries. The Purchaser further acknowledges that:

- (i) The Vendor makes no representations, warranties, or guarantees as to the existence of any Potential Tenancies in relation to the Lands, and has taken no efforts to determine the existence of any such Potential Tenancies. The Purchaser hereby acknowledges and agrees that it shall take title to the said Lands subject to any such Potential Tenancies. The Purchaser further acknowledges and agrees that all due diligence in relation to any such Potential Tenancies, as well as any action necessary to terminate such Potential Tenancies, if in existence, is the sole responsibility of the Purchaser, and the Vendor has no responsibility in relation to the Potential Tenancies.
- (ii) Without limiting the generality of the foregoing, the Purchaser acknowledges that the Lands forming part of the Purchased Assets have historically been used for the storage, sale and transfer of petroleum products and may have petroleum impregnated surface and subsurface conditions and may contain other Hazardous Materials, and that the environmental condition of the Lands may not meet applicable standards under Environmental Law. The Purchaser shall rely entirely on its own investigations and satisfy itself with respect to the environmental condition of the Lands, and acknowledges that the Vendor shall have no obligation whatsoever to remediate or otherwise bring the Lands into compliance with applicable Environmental Law. The Purchaser further acknowledges that the Purchaser may need to seek approval from the Ministry of the Environment, Conservation and Parks (Ontario) (the

"MOE") with respect to any proposed remediation which the Purchaser may be required to undertake in connection with its acquisition of the Lands and that, as a condition of any such remediation and of the Approval and Vesting Order, the Vendor shall be released from any and all liability in relation to the environmental condition of the Lands and the MOE shall, if required, have approved the transaction and/or proposed remediation.

- (b) **Title:** The Purchaser acknowledges that it shall, at its own expense, examine title to the Lands and satisfy itself as to the state thereof, satisfy itself as to outstanding work orders affecting the Lands, satisfy itself as to the use of the Lands being in accordance with applicable zoning requirements and satisfy itself that the Buildings may be insured to the satisfaction of the Purchaser. The Purchaser further acknowledges and agrees that notwithstanding any law whether statutory or otherwise to the contrary, the Purchaser has satisfied itself as to title and agrees that it has no right to submit requisitions: (i) in respect of the title and accepts same subject to the Permitted Encumbrances and the encumbrances to be extinguished pursuant to the Approval and Vesting Order; nor (ii) in respect of any zoning matter, land use, work orders or property standards compliance orders and the Purchaser shall accept title to the Property subject to the foregoing and shall satisfy itself as to compliance therewith. The Vendor shall not be required to furnish or produce any survey, abstract, deed, declaration or document or evidence of title except those in its possession.

9. DATE OF CLOSING

Subject to the provisions of Section 14 hereof, the transaction contemplated hereunder shall be completed (the moment of completion shall be referred to as "Closing") on the first Business Day following the date upon which the time to appeal the Approval and Vesting Order has expired, or, in the event that an appeal from the Appeal and Vesting Order is filed, the first Business Day following the final dismissal of the appeal (the "Date of Closing"), unless the parties hereto otherwise agree to such other date in writing.

10. 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 Solicitor's standard form of escrow closing agreement or document registration agreement which 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 Solicitor 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 for 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 hereto 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 Solicitor all closing documents required to be delivered by the Vendor to the Purchaser pursuant to Section 16 hereof;
 - (ii) advised the Purchaser's Solicitor in writing that the Vendor is ready, willing, and able to complete the transaction in accordance with the terms and provisions of this Agreement; and
 - (iii) completed all steps required by TERS to complete this transaction that can be performed or undertaken by the Vendor's Solicitors without the cooperation or participation of the Purchaser's Solicitor, 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 Solicitor 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 hereto that an effective tender shall be deemed to have been made by the Purchaser upon the Vendor, when the Purchaser's Solicitor has:

- (i) Delivered to the Vendor's Solicitor the balance due at Closing and all Closing Documents required to be delivered by the Purchaser to the Vendor pursuant to Section 17 hereof;
- (ii) advised the Vendor's Solicitors in writing that the Purchaser is ready, willing, and able to complete the transaction in accordance with the terms and provisions of this Agreement; and
- (iii) completed all steps required by TERS to complete this transaction that can be performed or undertaken by the Purchaser's Solicitor without the cooperation or participation of the Vendor's Solicitors, and specifically when the "completeness signatory" for the Application for Vesting Order has been electronically "signed" by the Purchaser's Solicitor,

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 Solicitor or the Vendor's Solicitors TERS is unavailable on the Closing Date, such that the Purchaser's Solicitor is unable to register the Application for Vesting Order, then the transaction contemplated by this Agreement shall be completed in escrow in accordance with the terms of the DRA which shall apply until such time as TERS becomes available. Upon TERS becoming available, the Vendor's Solicitors shall advise the Purchaser's Solicitor forthwith and the parties shall arrange to complete the registration of the Application for 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 10 and the terms of the DRA, the terms of this Section 10 shall prevail.

11. PRE-CLOSING RISK AND POST-DAMAGE ENTITLEMENTS

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

Without limiting the generality of the foregoing, the Purchaser acknowledges that the Purchased Assets were recently damaged by a fire, that the Purchaser has since inspected the damage, that all proceeds of insurance in connection with such fire shall be payable to the Vendor, and that the Purchaser has elected to complete the transaction contemplated by this Agreement on an "as is" basis without reduction of the Purchase Price.

12. VENDOR'S REPRESENTATIONS AND WARRANTIES

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

- (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; and
- (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.

13. PURCHASER'S REPRESENTATIONS AND WARRANTIES

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

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

obligations hereunder) by the Purchaser of the transaction contemplated hereunder will violate:

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

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

- (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 contemplated hereby by the Purchaser;
- (d) the Purchaser has made adequate arrangements to have sufficient funds available to satisfy its obligations to pay the cash portion of 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)**: either (i) the Purchaser is not a "non-Canadian", as defined in the *Investment Canada Act (Canada)* ("ICA"); or (ii) if the Purchaser is a "non-Canadian", this transaction is not a reviewable transaction under the ICA, or, if applicable, the Purchaser is a non-Canadian for the purpose of the ICA and will within three (3) Business Days of the execution of this Agreement submit to Investment Canada a fully completed Application for Review with respect to the transaction contemplated in this Agreement and will use its best efforts to obtain Investment Canada Approval within ten (10) days thereafter.

- (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 parties acknowledge and agree that the Purchaser has engaged a cooperating broker in connection with the transaction provided for in this Agreement and, accordingly, any commission, fee, or other remuneration payable to such broker shall be paid by the Vendor's listing broker;
- (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.

14. **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 at and as of the date hereof and each of such representations and warranties shall continue to be true 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 contemplated by this Agreement 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 not have been stayed, varied, or vacated and shall be in full force and effect and no appeal of the Approval and Vesting Order shall have been commenced and be outstanding; 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 14(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 14(v) and the Purchaser covenants to use its reasonable commercial efforts to fulfil or cause to be fulfilled the conditions contained in Section 14 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 6(a) hereof with respect to the Deposit, and otherwise without cost or other compensation and each of the Vendor and the Purchaser shall be released from its obligations and liabilities hereunder.

15. **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 at and as of the date hereof and each of such representations and warranties shall continue to be true 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 contemplated by this Agreement 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 Purchaser shall have obtained the Approval and Vesting Order; and
- (v) **No Stay or Appeal:** The Approval and Vesting Order shall not have been stayed, varied, or vacated and shall be in full force and effect and no appeal of the Approval and Vesting Order shall have been commenced and be outstanding.

For greater certainty, each of the conditions contained in this Section 15(a) have been inserted for the benefit of the Purchaser.

- (b) The Vendor covenants to use reasonable commercial efforts to fulfil or cause to be fulfilled all the conditions contained in section 15 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 6(a) hereof with respect to the Deposit, and otherwise without cost or other compensation and each of the Vendor and the Purchaser shall be released from all other obligations hereunder.

16. **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 7 hereof, to be delivered not less than two (2) Business Days prior to Closing;
- (c) **Vendor's Certificate:** The Vendor's Certificate setting out that each of the Vendor's representations and warranties contained in this Agreement are true as of Closing and that each of the conditions in section 14 have been fulfilled, performed, or waived as of the Time of Closing;

- (d) **Direction Regarding Funds:** a direction from the Vendor designating the party or parties to which the balance of the Purchase Price described in Subsection 9(b) hereof shall be paid; in the event that the Vendor designates more than one party then it shall also designate amounts payable to each of the parties;
- (e) **Keys, etc.:** all keys, security cards and access codes for the Buildings in the Vendor's possession;
- (f) **ETA Election:** the ETA Election, if applicable;
- (g) **Receiver's Certificate:** The Receiver's Certificate as provided for in the Approval and Vesting Order;
- (h) **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 the Receivership Order or Approval and Vesting Order or to enjoin, restrict or prohibit the transaction provided for in this Agreement.
- (i) **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";
- (j) **Receipt:** a receipt from the Vendor for the Purchase Price; and
- (k) **Further Documentation:** such further documentation relating to the completion of this Agreement as may be reasonably required by the Purchaser or the Purchaser's Solicitor, 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.

17. **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 6(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 as at

Closing and that each of the conditions in section 15 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 Reduction**: 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 Lands for the period prior to the Closing Date is received by the Vendor;
- (e) **Taxes**: payment or evidence of payment of applicable federal and provincial taxes 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) **Direction re Title**: provided that the Vendor has consented to an assignment of this Agreement in accordance with Section 38 hereof, a direction from the Purchaser designating the transferee(s) in the Approval and Vesting Order along with an assignment and assumption of this Agreement whereby the assignee agrees to assume all of the Purchaser's obligations and liabilities hereunder as if it were the original purchaser party to this Agreement (required only in the event that the Approval and Vesting Order is to be inscribed in favour of a person/entity other than the Purchaser);
- (h) **Certificate of Incumbency**: a certificate of incumbency setting out the names and specimen signatures of each of the directors and officers of the Purchaser;
- (i) **Environmental Indemnity**: an environmental indemnity indemnifying and holding the Vendor harmless from any and all damages, claims, actions, losses, costs, liabilities or expenses (collectively "Damages") suffered or incurred by the Vendor, directly or indirectly, whether caused by negligence, wilful misconduct or other acts or omissions of the Vendor, including non-compliance with applicable Environmental Law, as a result of or in connection with any of the following, and without restricting the generality of the foregoing, which include Damages incurred in addressing an administrative order by a Government Authority or in addressing a notice, investigation or other process which could reasonably be anticipated to result in such an order:
 - (i) the presence or release of any Hazardous Materials in, on or under the Lands or the threat of a release;

- (ii) the presence of any Hazardous Materials in, on or under properties adjoining or proximate to the Lands;
 - (iii) any other environmental matters relating to the Lands;
 - (iv) the breach by the Purchaser or those for whom it is responsible at law of any Environmental Law applicable to the Lands; or,
 - (v) the release or threatened release of any Hazardous Materials owned, managed, generated, disposed of, controlled, or transported by or on behalf of the Purchaser.
- (j) **Balance Due at Closing:** the balance of the Purchase Price described in Subsection 6(b) hereof; and
 - (k) **Further Documentation:** any other documentation relative to the completion of this Agreement as may reasonably be required by the Vendor or the Vendor's Solicitors.

18. **PLANNING ACT (ONTARIO)**

The Purchaser acknowledges that the parcels forming the Lands have merged pursuant Part VI of the *Planning Act* (Ontario), and that the Vendor has no obligation to seek any form of consent, validation, rectification, or any other form of relief at law or equity in relation to such merger, which shall be the Purchaser's sole obligation.

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 contemplated hereunder 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 880817127RT0001 _____ or shall be registered as of Closing.
- (c) **Self-Assessment:** If part or all 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. 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 contemplated hereunder.

20. POSSESSION

The Vendor shall remain in possession of the Purchased Assets until the time of Closing. Upon the completion of the transaction, the Vendor shall yield up 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 provided for herein 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 chattels, books, records, documents, or other personal property situate in the buildings which does not form part of the Purchased Assets. 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 for a period of six (6) years after the Date of Closing or such longer period as may be required by applicable laws.

21. NOTICE

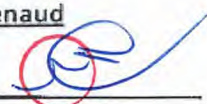
Any notice given hereunder shall be in writing and delivered or communicated by facsimile or electronic transmission to:

in the case of the Purchaser to:

- (a) In the case of the Purchaser:

1395559 Ontario Inc.
114 Front Street
Sturgeon Falls, ON
P2B 2H8

Attention: Michel Renaud
 Tel.: 705-753-5595
 Fax: _____
 Email: mike@asmatores.com



and with a copy to the Purchaser's Solicitor:

Stewart & Bain Professional Corporation
38 Queen Street
Sturgeon Falls, ON
P2B 2C6

Attention: Andrea Bain
Tel.: 705-753-3000
Fax: 705-753-3968
Email: andrea@stewartlaw.ca

and in the case of the Vendor to:

msi Spergel Inc., in its Capacity as
Court-Appointed Receiver of
2743732 Ontario Inc.
1100-200 Yorkland Blvd.,
Toronto, ON M2J 5C1

Attention:

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

Mukul Manchanda
Email: mmanchanda@spergel.ca
Tel. & Telecopier: (416) 498-498-4314

with a copy to the Vendor's Solicitors at:

Harrison Pensa LLP
1101-130 Dufferin Ave.
London, ON N6A5R2

Attention: Tim Hogan
Email: thogan@harrisonpensa.com
Tel: 519-661-6743
Fax: 519-667-3362

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 contemplated hereunder at Closing and are not conditions precedent of this Agreement. Any one or more of the said conditions may be waived, in writing, in whole or in part, by the benefiting party without prejudice to the benefiting party's right of termination in the event of the non-fulfilment of any other condition, and, if so waived, this Agreement shall be read exclusive of the said condition or conditions so waived. For greater certainty, the closing of the transaction contemplated hereunder by a party hereof shall be deemed to be a waiver by such party of compliance with any condition inserted for its benefit and not satisfied at Closing.

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.

26. CUMULATIVE REMEDIES

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

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 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. FURTHER ASSURANCES

Except as otherwise expressed herein to the contrary, each party shall, without receiving additional consideration, therefore, co-operate with and take such additional actions as may be requested by the other party, acting reasonably, in order to carry out the purpose and intent of this Agreement. Provided that upon the discharge of the Vendor as receiver, the Vendor's obligation under this paragraph shall be at an end and the Vendor shall have no continuing obligation under this paragraph.

33. CONFIDENTIALITY

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

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

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

34. 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.

35. 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 contemplated in this Agreement. Except as otherwise expressly provided in this Agreement, each of the Vendor and the Purchaser shall be responsible for and pay all legal and other professional/consultant fees and disbursements incurred by it, directly or indirectly, in connection with this Agreement.

36. LAND TRANSFER TAXES AND SALES TAXES

The Purchaser shall pay on or prior to Closing all applicable federal and provincial taxes exigible in connection with the transaction hereunder including, without limitation, HST and land transfer taxes (as required pursuant to the *Land Transfer Tax Act* (Ontario)).

37. 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.

38. ASSIGNMENT AND ENUREMENT

The Purchaser shall not assign part or all its interest under this Agreement without the prior written consent of the Vendor, which consent may be arbitrarily withheld. This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.

39. 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.

40. 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 because 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.

41. 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 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.

42. 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.

43. 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.

44. 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 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.

45. TIME FOR ACCEPTANCE


Purchaser

   
Vendor

The offer to purchase comprising this Agreement shall be irrevocable by the ~~Vendor~~ and open for acceptance by the ~~Vendor~~ until 5:00 o'clock p.m. on the ~~8th~~ day of October, 2024, 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 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.


Purchaser


Vendor

DATED 5, FALLS, Ontario as of the date first mentioned above.

1395559 ONTARIO INC.

By:



Name: Michel Renaud

Title: President

I have authority to bind the Corporation.

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

DATED at Toronto, Ontario this 1st day of October, 2024.

 
Vendor

msi Spergel Inc., in its capacity as Court-Appointed Receiver of the assets, undertakings and properties of 2743732 Ontario Inc. and not in its personal or corporate capacity and without personal or corporate liability

By:



Name: Mukul Manchanda

Title: Managing Partner

I have authority to bind the Corporation.

Schedule "A" – LEGAL DESCRIPTION

PT LOT 3, CON. 1 SPRINGER PT 4-6, 36R6873 SRO & PT 4-6 36R7620; WEST
NIPISSING, DISTRICT OF NIPISSING {PIN: 49080-0692 (LT)}

Schedule "B" – PERMITTED ENCUMBRANCES

1. Any undetermined or inchoate liens and charges incidental to the Purchased Assets.
2. The reservations, limitations, provisos, conditions, restrictions, and exceptions expressed in the letters patent or grant from the Crown and all statutory exceptions to title;
3. The provisions of governing municipal by-laws;
4. Municipal taxes, liens, charges, including hydro and water charges, rates and assessments accruing from day to day and not yet due and payable;
5. Any defects or minor encroachments which might be revealed by an up-to-date survey of the Lands;
6. Any right of expropriation conferred upon, reserved to, or vesting in Her Majesty the Queen in Right of Canada and Ontario;
7. Any registered restrictions or covenants that run with the Lands provided that same have been complied with in all material respects;
8. 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;
9. Any agreements with municipal, utilities or public authorities provided that same have been complied with in all material respects;
10. The following instruments registered on title to the Lands in the applicable Land Registry Office:

PIN 49080-0692 (LT)

Registration Number	Date	Instrument Type
NONE	N/A	N/A
58R15460	July 14, 2006	Reference Plan

Schedule "C" – DRAFT APPROVAL AND VESTING ORDER

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

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

THE HONOURABLE)
)
JUSTICE) DAY OF , 2024

THE TORONTO-DOMINION BANK

Applicant

- and -

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

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by msi Spergel Inc., solely in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of 2743732 Ontario Inc. (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an asset purchase agreement (the "Sale Agreement") between the Receiver and [NAME] (the "Purchaser") dated [DATE] and vesting in the Purchaser all of the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets") and referenced in Schedule "B" hereto, was heard this day by judicial videoconference via Zoom at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report of the Receiver and Appendices thereto and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although properly served as appears from the affidavit of [NAME] sworn, [DATE], filed:

- 1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby

authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of the Debtors' right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on Schedule B hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Steele dated May 15, 2023; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.
3. THIS COURT ORDERS that upon the registration in the Land Registry Office for the Land Titles Division of {INSERT DETAILS} of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.
4. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of

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

5. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.
6. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtors' past and current employees, including personal information of those Assumed Employees, if any, as defined in 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 Debtors.
7. THIS COURT ORDERS that, notwithstanding:
 - a. the pendency of these proceedings;
 - b. any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtors and any bankruptcy order issued pursuant to any such applications; and
 - c. any assignment in bankruptcy made in respect of the Debtors;
8. THIS COURT ORDERS that the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a 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.
10. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. on the date of this Order and is enforceable without the need for entry or filing.

Justice, Ontario Superior Court of Justice - Commercial List

Schedule A – Form of Receiver’s Certificate

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE TORONTO DOMINION BANK

Applicant

- and -

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

Respondents

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Steele of the Ontario Superior Court of Justice (the "Court") dated May 15, 2023, msi Spergel Inc. was appointed as the receiver (the "Receiver") of the undertaking, property, and assets of 2743732 Ontario Inc. ("Debtor").

B. Pursuant to an Order of the Court dated [DATE], the Court approved the agreement of purchase and sale made as of [DATE] (the "Sale Agreement") between the Receiver, solely in its capacity as court-appointed receiver of all of the property and assets of 2743732 Ontario Inc. and [NAME] (the "Purchaser"), and provided for the vesting in the Purchaser of the Debtors' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid, and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;

2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**msi Spergel Inc., solely in its capacity as
Receiver of the undertaking, property and
assets of 2743732 Ontario Inc. and not in its
personal capacity**

Per: _____
Name:
Title:

Schedule B – Purchased Assets

The Purchased Assets, as defined in the Sale Agreement including, without limitation, the Real Property described as follows:

PT LOT 3, CON. 1 SPRINGER PT 4-6, 36R6873 SRO & PT 4-6 36R7620; WEST NIPISSING, DISTRICT OF NIPISSING {PIN: 49080-0692 (LT)}

Schedule C – Claims to be Deleted and Expunged from title to Real Property

1. BS204267, being a charge in favour of The Toronto-Dominion Bank registered September 14, 2021;
2. BS204268, being a notice of assignment of rents in favour of The Toronto-Dominion Bank registered September 14, 2021.

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

(unaffected by the Vesting Order)

1. NB58662, being an order registered January 28, 1965;
2. 36R3618, being a reference plan registered October 9, 1974;
3. 36R4126, being a reference plan registered July 27, 1976;
4. 36R6873, being a reference plan registered July 25, 1985;
5. 36R7620, being a reference plan registered February 4, 1988.

Schedule D Agreement of Purchase and Sale - Commercial

Form 505
for use in the Province of Ontario

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER: 1395559 Ontario Inc., and

SELLER: MSI SPERGEL INC

for the purchase and sale of 162 FRONT Street Sturgeon Falls

ON P2B 2H8 dated the 20 day of September 2024

~~This offer is conditional upon the approval of the terms hereof by the Buyer's Solicitor. Unless the Buyer gives notice in writing delivered to the Seller personally or in accordance with any other provisions for the delivery of notice in this Agreement of Purchase and Sale or any Schedule thereto not later than 5 p.m. on the 7th day of October, 2024, that this condition is fulfilled, this Offer shall be null and void and the deposit shall be returned to the Buyer in full without deduction. This condition is included for the benefit of Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller as aforesaid within the time period stated herein.~~

Intentionally Deleted.

Mm

box sign THE CANADIAN REALTY

This form must be initialed by all parties to the Agreement of Purchase and Sale.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):

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Confirmation of Co-operation and Representation Buyer/Seller

BUYER: 1395559 Ontario Inc.

SELLER: MSI SPERGEL INC
.....

For the transaction on the property known as: 162 FRONT Street Sturgeon Falls ON P2B 2H8

DEFINITIONS AND INTERPRETATIONS: For the purposes of this Confirmation of Co-operation and Representation: "Seller" includes a vendor, landlord, lessor or a prospective seller, vendor, landlord or lessor and "Buyer" includes a purchaser, tenant, lessee or a prospective buyer, purchaser, tenant or lessee and "sale" includes a lease, and "Agreement of Purchase and Sale" includes an Agreement to Lease. Commission shall be deemed to include other remuneration.

The following information is confirmed by the undersigned salesperson/broker representatives of the Brokerage(s). If a Co-operating Brokerage is involved in the transaction, the brokerages agree to co-operate, in consideration of, and on the terms and conditions as set out below.

DECLARATION OF INSURANCE: The undersigned salesperson/broker representative(s) of the Brokerage(s) hereby declare that he/she is insured as required by the Trust in Real Estate Services Act, 2002 (TRESA).

1. LISTING BROKERAGE (Single Representation)

- a) The Listing Brokerage or a Designated Representative of the Listing Brokerage represents the interests of the Seller in this transaction. It is further understood and agreed that:
 - 1) Neither the Listing Brokerage nor a Designated Representative of the Listing Brokerage is representing the Buyer and has not entered into a representation agreement with the Buyer.
 - 2) The Listing Brokerage or a Designated Representative of the Listing Brokerage is providing assistance to the Buyer and the Buyer is a self-represented party.
 - 3) The Seller client and Buyer client are each separately represented by different designated representatives of the same brokerage and there is no multiple representation.

2. LISTING BROKERAGE (Multiple Representation)

- a) The Listing Brokerage has entered into Representation Agreement with the Buyer and there is Multiple Representation.
- b) The Designated Representative who represents the Seller also represents the Buyer and there is Multiple Representation.

Additional comments and/or disclosures by Listing Brokerage: (e.g., The Listing Brokerage represents more than one Buyer offering on this property.)
.....
.....

3. PROPERTY SOLD BY BUYER BROKERAGE

- a) The Brokerage or a Designated Representative of the Brokerage represents the Buyer and the Brokerage will be paid by the Buyer directly.

4. CO-OPERATING BROKERAGE

- a) **CO-OPERATING BROKERAGE – REPRESENTATION:**
 - 1) The Co-operating Brokerage or a Designated Representative of the Co-operating Brokerage represents the interest of the Buyer in this transaction.
- b) **CO-OPERATING BROKERAGE – COMMISSION:**
 - 1) The Listing Brokerage will pay the Co-operating Brokerage the commission as indicated in the MLS® information for the property in the amount of 2.0% to be paid from the amount paid by the Seller to the Listing Brokerage.
(Commission As Indicated In MLS® Information)
 - 2) The Co-operating Brokerage will be paid as follows:
.....
.....

Additional comments and/or disclosures by Co-operating Brokerage: (e.g., The Co-operating Brokerage represents more than one Buyer offering on this property.)
.....
.....

INITIALS OF BUYER(S)/SELLER(S)/BROKERAGE REPRESENTATIVE(S) (Where applicable)


BUYER


CO-OPERATING/BUYER BROKERAGE


SELLER


LISTING BROKERAGE

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Commission will be payable as described above, plus applicable taxes.

COMMISSION TRUST AGREEMENT: If the above Co-operating Brokerage is receiving payment of commission from the Listing Brokerage, then the agreement between Listing Brokerage and Co-operating Brokerage further includes a Commission Trust Agreement, the consideration for which is the Co-operating Brokerage procuring an offer for a trade of the property, acceptable to the Seller. This Commission Trust Agreement shall be subject to and governed by the MLS® rules and regulations pertaining to commission trusts of the Listing Brokerage's local real estate board, if the local board's MLS® rules and regulations so provide. Otherwise, the provisions of the OREA recommended MLS® rules and regulations shall apply to this Commission Trust Agreement. For the purpose of this Commission Trust Agreement, the Commission Trust Amount shall be the amount noted in Section 4 above. The Listing Brokerage hereby declares that all monies received in connection with the trade shall constitute a Commission Trust and shall be held, in trust, for the Co-operating Brokerage under the terms of the applicable MLS® rules and regulations.

SIGNED BY THE BROKER/SALESPERSON REPRESENTATIVE(S) OF THE BROKERAGE(S) (Where applicable)

Page & Associates Realty, Brokerage
 (Name of Co-operating/Buyer Brokerage)
 59 Front Street Sturgeon Falls ON P2B 2G8
 Tel: 705-753-1155 Fax: 705-753-5218
 [Signature] 09/20/2024
 (Authorized to bind the Co-operating/Buyer Brokerage) (Date)
 Michael Page
 (Print Name of Salesperson/Broker/Broker of Record)

Mallette-Goring Inc., Brokerage
 (Name of Listing Brokerage)
 Tel: 705-673-3000 Fax:
 [Signature]
 (Authorized to bind the Listing Brokerage) (Date)
 Chris Tammi
 (Print Name of Salesperson/Broker/Broker of Record)

CONSENT FOR MULTIPLE REPRESENTATION

The Buyer and Seller confirm that they have previously consented to Multiple Representation.
 The Buyer and Seller consent with their initials Multiple Representation for this transaction.

INITIALS OF BUYER(S) INITIALS OF SELLER(S)

ACKNOWLEDGEMENT

I have received, read, and understand the above information.

+ [Signature] 09/20/2024
 (Signature of Buyer) 1395559 Ontario Inc. (Date)
 (Signature of Buyer) (Date)

Mukul Manchanda Sep 30, 2024
 box SIGN 17KKJ56-4Z8P2X7V (Date)
 (Signature of Seller) MSI SPERGEL INC (Date)
 (Signature of Seller) (Date)

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Appendix 9

162 Front Street,
Sturgeon Falls, ON
P2B 2H8

RE: Intended Use of the Property

To the Seller's Representatives:

Regarding the environmental state of the property: We have worked on many occasions with Englobe for environmental assessments on various projects. It is our intention to immediately contact them to review the A&A site assessment and to determine areas to be remedied. At that time, we can establish a plan and timeframe to complete the clean-up. We are aware that it is necessary to get this resolved in a timely manner.

We have reviewed the reports provided to us. Once the purchase is complete, it is our intention to dispose of contaminated soil in the southeast corner at an approved waste site.

Furthermore, we are planning to work with the present tenant, Steve's Premier, to expand their restaurant business. In addition, we plan to renovate and make the necessary repairs to the former convenience store, so it is viable to operate. In light of transparency, we may explore other avenues in line with our existing license OMCVIC. We have the employees to support new ventures, and the existing automotive repair shop would be an asset.

Yours Truly,



Mike Renaud
ASM Sturgeon Falls
114 Front Street & 90 Bay Street
Sturgeon Falls, ON
P2B 2H8
T 705-753-5595
F 705-753-5769

Appendix 10

From: Tim Hogan

Sent: Monday, October 28, 2024 8:51 AM

To: McCulloch, Paul (He/Him) (MECP) <Paul.McCulloch@ontario.ca>

Cc: Manchanda Mukul - msi Spergel (mmanchanda@spergel.ca) <mmanchanda@spergel.ca>; Philip Gennis - Spergel (pgennis@spergel.ca) <pgennis@spergel.ca>; Rob Danter <rdanter@harrisonpensa.com>

Subject: msi Spergel inc. Court appointed receiver of 2743732 Ontario Inc. ("274 Ont.") - Property located at 162 Front Street, Sturgeon Falls, Ontario (the "Property") [IMAN-HPMAIN.FID606488]

Good morning, Paul.

We are counsel to Spergel, as Court appointed Receiver over the Property owned by 274 Ont.

Spergel's website for the receivership is <https://www.spergelcorporate.ca/engagements/2743732-ontario-inc/>.

The Property is a gas station. The Receiver has not operated the station, and there is a tenant on site that continues the operation of a restaurant.

The Receiver has obtained a Phase 2, Delineation and Remediation Report along with TFFSA Inspection reports (the "Reports"). These Reports conclude that soil and groundwater on the Property require remediation to bring the Property to standards.

The Receiver obtained the Order of the Court dated May 27, 2024 approving a sales process and sealing certain documents, including the Reports.

The Receiver has marketed the Property and has entered into a conditional sale agreement, subject to Court approval. Attached is a copy of the sale agreement redacted as to sale price and deposit. Please see article 8(a) ii) that speaks to the Purchaser's dealing with the MOE.

We have confirmation from the Purchaser that it intends to work with a consultant to review the Reports, with a view to remediation, please see attached Purchaser Remediation document.

We would like to engage with your team to discuss the Receiver moving ahead with the sale transaction. Key for the Receiver will be protection to the Receiver from any claim by MOE against the Receiver as a result of the Receivership and any sale.

Due to the sealing of the Reports, we are not sharing same in this email and would like to discuss same being provided to the MOE on terms that will protect the Receiver in its sale or continued marketing of the Property.

On your review, can you please advise if we can set a call to discuss.

Thank-you.

Tim Hogan* | [HARRISON PENZA LLP](#) | [130 Dufferin Avenue, Suite 1101, London, ON N6A 5R2](#) | *tel/* 519-661-6743 | *fax* 519-667-3362 | thogan@harrisonpensa.com Assistant | Aimee Newman | *tel/* 519-850-5568 | anewman@harrisonpensa.com *Services provided by *T. Hogan Professional Corporation* through Harrison Pensa LLP.

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Appendix 11

Philip Gennis

From: James Dionne <jdionne@tssa.org>
Sent: Friday, November 29, 2024 2:33 PM
To: Philip Gennis
Subject: RE: 2743732 Ontario Inc.-In Receivership-Property located at 162 Front Street, Sturgeon Falls, Ontario

Good Afternoon,

I do not need to be contacted directly as my schedule is booked by our office. Once a change of ownership application is submitted a work order gets created.

Thanks,

From: Philip Gennis <PGennis@spergel.ca>
Sent: Friday, November 29, 2024 2:30 PM
To: James Dionne <jdionne@tssa.org>
Cc: Mukul Manchanda <mmanchanda@spergel.ca>; thogan@harrisonpensa.com; Lindsay Lesmeister <llesmeister@spergel.ca>; Philip Gennis <PGennis@spergel.ca>
Subject: RE: 2743732 Ontario Inc.-In Receivership-Property located at 162 Front Street, Sturgeon Falls, Ontario

James,

Thanks for your prompt reply.
Should our Counsel communicate with you regarding the sale and our intention to seek court approval for same?

Philip H. Gennis, J.D., CIRP, LIT | Licensed Insolvency Trustee

Corporate Restructuring and Insolvency

msi Spergel inc. | Licensed Insolvency Trustees
1100-200 Yorkland Blvd., Toronto, ON M2J5C1
T/F: 416-498-4325 | C: (416) 457-4773

PGennis@spergel.ca | www.spergelcorporate.ca

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Philip Gennis, J.D., CIRP, LIT

Corporate Restructuring & Insolvency

msi Spergel inc. | Licensed Insolvency Trustees
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From: James Dionne <jdionne@tssa.org>
Sent: Friday, November 29, 2024 2:21 PM
To: Philip Gennis <PGennis@spergel.ca>
Cc: Mukul Manchanda <mmanchanda@spergel.ca>; thogan@harrisonpensa.com; Lindsay Lesmeister <llesmeister@spergel.ca>
Subject: RE: 2743732 Ontario Inc.-In Receivership-Property located at 162 Front Street, Sturgeon Falls, Ontario

Good Afternoon,

The new owners will be required to create a account on our website www.tssa.org and submit a change of ownership application. A inspection would be scheduled for the change of ownership and a petroleum contactor would need to perform testing and give a report for all maintenance and testing required as per the LFHC 2017.

Regards,



James Dionne | Inspector, Fuels
Fuels
345 Carlingview Drive
Toronto, Ontario M9W 6N9
Cell: +1 647-273-2790 | E-Mail: jdionne@tssa.org
www.tssa.org



Winner of 2024 5-Star Safety Cultures Award

From: Philip Gennis <PGennis@spergel.ca>
Sent: Thursday, November 28, 2024 6:39 PM
To: James Dionne <jdionne@tssa.org>
Cc: Philip Gennis <PGennis@spergel.ca>; Mukul Manchanda <mmanchanda@spergel.ca>; thogan@harrisonpensa.com; Lindsay Lesmeister <llesmeister@spergel.ca>
Subject: 2743732 Ontario Inc.-In Receivership-Property located at 162 Front Street, Sturgeon Falls, Ontario

Mr. Dionne,

As you are aware, msi Spergel inc., is the court-appointed Receiver of the above company and the property located at 162 Front Street, Sturgeon Falls, Ontario. I have

attached a copy of the Receivership Order for reference as well as your inspection report No. 10155963.

We write to advise that we have entered into an Agreement of Purchase Sale for the property for which we will be seeking court approval.

Would you kindly provide us with a name of someone at TSSA or its legal Counsel with whom we can discuss the sale of this property.

Thanks,

Philip H. Gennis, J.D., CIRP, LIT | Licensed Insolvency Trustee

Corporate Restructuring and Insolvency

msi Spergel inc. | Licensed Insolvency Trustees

1100-200 Yorkland Blvd., Toronto, ON M2J5C1

T/F: 416-498-4325 | C: (416) 457-4773

PGennis@spergel.ca | www.spergelcorporate.ca

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Philip Gennis, J.D., CIRP, LIT

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Appendix 12



PAGE & ASSOCIATES
Realty Brokerage

59 Front Street
Sturgeon Falls, ON P2B 2G8
BUS: 705-753-1155
FAX: 705-753-5218

December 6, 2024

Kelly J. Avison AACI
Avison Young
416-673-4030

Hi Kelly,

RE: Work order 14222109
162 Front Street, Sturgeon Falls
MSI Spergel Inc

Thank you for your time today, in regard to the above-mentioned work order and listening to Mike Renaud's concerns moving forward.

In summary, for a \$20,000 reduction on closing, Mike will take on the work order issued by TSSA on January 25, 2024, including any additional costs associated with this work order. We would request that WAGGS Petroleum contact TSSA to have the work order transferred to the purchaser.

Please advise if this is satisfactory and I could provide an Amendment to the Agreement of Purchase and Sale outlining the changes.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Page". The signature is enclosed in a large, hand-drawn oval.

Michael Page, M.Sc., B.A.
Broker of Record

Appendix 13

LAND
REGISTRY
OFFICE #36

49080-0692 (LT)

PAGE 1 OF 5
PREPARED FOR dipierdomenico
ON 2023/06/02 AT 15:36:15

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

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

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

ESTATE/QUALIFIER:
FEE SIMPLE
LT CONVERSION QUALIFIED

RECENTLY:
FIRST CONVERSION FROM BOOK

PIN CREATION DATE:
2004/09/20

OWNERS' NAMES
2743732 ONTARIO INC.

CAPACITY SHARE
ROWN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2004/09/17 **						
**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:						
** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *						
** AND ESCHEATS OR FORFEITURE TO THE CROWN.						
** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF						
** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY						
** CONVENTION.						
** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.						
**DATE OF CONVERSION TO LAND TITLES: 2004/09/20 **						
NB58662	1965/01/28	ORDER				C
36R3618	1974/10/09	PLAN REFERENCE				C
NB83449	1974/12/02	LEASE		*** COMPLETELY DELETED ***	TRUCHON, MARIE	
36R4126	1976/07/27	PLAN REFERENCE				C
NB96220	1979/02/19	LEASE		*** COMPLETELY DELETED ***	TRUCHON FUEL SALES (STURGEON FALLS) LIMITED	
NB101509	1981/02/05	AGREEMENT		*** COMPLETELY DELETED ***		
NB101975	1981/04/27	CHARGE OF LEASE		*** COMPLETELY DELETED ***	GOULARD LUMBER (1971) LIMITED	
36R6873	1985/07/25	PLAN REFERENCE				C

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

LAND
REGISTRY
OFFICE #36

49080-0692 (LT)

PREPARED FOR dipierdomenico
ON 2023/06/02 AT 15:36:15

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

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

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

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

LAND
REGISTRY
OFFICE #36

49080-0692 (LT)

PREPARED FOR dipierdomenico
ON 2023/06/02 AT 15:36:15

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

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

Appendix 14

Enquiry Result

File Currency: 27JAN 2025

Show All Pages

All Pages



Note: All pages have been returned.

Type of Search	Business Debtor								
Search Conducted On	2743732 ONTARIO INC.								
File Currency	27JAN 2025								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	776327922	1	4	1	8	13SEP 2026			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
776327922		001	1		20210913 1438 1590 4829	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name		Initial	Surname				
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	2743732 ONTARIO INC.					002743732			
	Address			City	Province	Postal Code			
	298 LENNOX AVENUE			RICHMOND HILL	ON	L4C 2A7			
Individual Debtor	Date of Birth	First Given Name		Initial	Surname				
	08OCT1975	SERGEI			HOMIAKOV				
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
	298 LENNOX AVENUE			RICHMOND HILL	ON	L4C 2A7			
Secured Party	Secured Party / Lien Claimant								
	THE TORONTO-DOMINION BANK (BRANCH #1060)								
	Address			City	Province	Postal Code			
	10909 YONGE STREET NR, ELGIN MILLS			RICHMOND HILL	ON	L4C 3E3			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
				X	X				X
Motor Vehicle Description	Year	Make		Model		V.I.N.			
General Collateral Description	General Collateral Description								

Registering Agent	Registering Agent			
	FIJLAW LLP			
	Address	City	Province	Postal Code
	10-50 WEST PEARCE STREET	RICHMOND HILL	ON	L4B 1C5

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	2743732 ONTARIO INC.								
File Currency	27JAN 2025								
	File Number	Family	of Families	Page					of Pages
	776327922	1	4	2					8
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		001	1		20230331 1147 1793 3963				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	776327922			A AMNDMNT					
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
	2743732 ONTARIO INC.								
Other Change	Other Change								
Reason / Description	Reason / Description								
	TO REMOVE THE OCN FROM THE DEBTOR DETAILS								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	2743732 ONTARIO INC.								
	Address				City	Province	Postal Code		
	298 LENNOX AVENUE				RICHMOND HILL	ON	L4C2A7		
Assignor Name	Assignor Name								
Secured Party	Secured party, lien claimant, assignee								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model			V.I.N.	
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								
	AIRD & BERLIS LLP								

	Address	City	Province	Postal Code
	181 BAY STREET, SUITE 1800, BOX# 754	TORONTO	ON	M5J2T9

END OF FAMILY

Type of Search	Business Debtor								
Search Conducted On	2743732 ONTARIO INC.								
File Currency	27JAN 2025								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	776327985	2	4	3	8	13SEP 2026			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
776327985		001	1		20210913 1439 1590 4830	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	2743732 ONTARIO INC.					002743732			
	Address				City	Province	Postal Code		
	298 LENNOX AVENUE				RICHMOND HILL	ON	L4C 2A7		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	THE TORONTO-DOMINION BANK (BRANCH #1060)								
	Address				City	Province	Postal Code		
	10909 YONGE STREET NR, ELGIN MILLS				RICHMOND HILL	ON	L4C 3E3		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
				X	X				X
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								
	FIJLAW LLP								
	Address				City	Province	Postal Code		
	10-50 WEST PEARCE STREET				RICHMOND HILL	ON	L4B 1C5		

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	2743732 ONTARIO INC.								
File Currency	27JAN 2025								
	File Number	Family	of Families	Page					of Pages
	776327985	2	4	4					8
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		001	1		20230331 1147 1793 3962				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	776327985			A AMNDMNT					
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
	2743732 ONTARIO INC.								
Other Change	Other Change								
Reason / Description	Reason / Description								
	TO REMOVE THE OCN FROM THE DEBTOR DETAILS								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	2743732 ONTARIO INC.								
	Address				City	Province	Postal Code		
	298 LENNOX AVENUE				RICHMOND HILL	ON	L4C2A7		
Assignor Name	Assignor Name								
Secured Party	Secured party, lien claimant, assignee								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model			V.I.N.	
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								
	AIRD & BERLIS LLP								

	Address	City	Province	Postal Code
	181 BAY STREET, SUITE 1800, BOX# 754	TORONTO	ON	M5J2T9

END OF FAMILY

Type of Search	Business Debtor								
Search Conducted On	2743732 ONTARIO INC.								
File Currency	27JAN 2025								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	776328021	3	4	5	8	13SEP 2026			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
776328021		001	1		20210913 1439 1590 4831	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	2743732 ONTARIO INC.					002743732			
	Address				City	Province	Postal Code		
	298 LENNOX AVENUE				RICHMOND HILL	ON	L4C 2A7		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	THE TORONTO-DOMINION BANK (BRANCH #1060)								
	Address				City	Province	Postal Code		
	10909 YONGE STREET NR, ELGIN MILLS				RICHMOND HILL	ON	L4C 3E3		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
				X	X				X
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
	ASSIGNMENT OF TERM DEPOSIT AND CREDIT BALANCES								
Registering Agent	Registering Agent								
	FIJLAW LLP								
	Address				City	Province	Postal Code		
	10-50 WEST PEARCE STREET				RICHMOND HILL	ON	L4B 1C5		

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	2743732 ONTARIO INC.								
File Currency	27JAN 2025								
	File Number	Family	of Families	Page					of Pages
	776328021	3	4	6					8
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		001	1		20230331 1145 1793 3960				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	776328021			A AMNDMNT					
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
	2743732 ONTARIO INC.								
Other Change	Other Change								
Reason / Description	Reason / Description								
	TO REMOVE THE OCN FROM THE DEBTOR DETAILS								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	2743732 ONTARIO INC.								
	Address				City	Province	Postal Code		
	298 LENNOX AVENUE				RICHMOND HILL	ON	L4C2A7		
Assignor Name	Assignor Name								
Secured Party	Secured party, lien claimant, assignee								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model		V.I.N.		
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								
	AIRD & BERLIS LLP								

	Address	City	Province	Postal Code
	181 BAY STREET, SUITE 1800, BOX# 754	TORONTO	ON	M5J2T9

END OF FAMILY

Type of Search	Business Debtor								
Search Conducted On	2743732 ONTARIO INC.								
File Currency	27JAN 2025								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	776328039	4	4	7	8	13SEP 2026			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
776328039		001	1		20210913 1440 1590 4832	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	2743732 ONTARIO INC.					002743732			
	Address				City	Province	Postal Code		
	298 LENNOX AVENUE				RICHMOND HILL	ON	L4C 2A7		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	THE TORONTO-DOMINION BANK (BRANCH #1060)								
	Address				City	Province	Postal Code		
	10909 YONGE STREET NR, ELGIN MILLS				RICHMOND HILL	ON	L4C 3E3		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X	X	X			X
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								
	FIJLAW LLP								
	Address				City	Province	Postal Code		
	10-50 WEST PEARCE STREET				RICHMOND HILL	ON	L4B 1C5		

CONTINUED

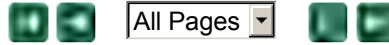
Type of Search	Business Debtor								
Search Conducted On	2743732 ONTARIO INC.								
File Currency	27JAN 2025								
	File Number	Family	of Families	Page					of Pages
	776328039	4	4	8					8
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		001	1		20230331 1144 1793 3959				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	776328039			A AMNDMNT					
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
	2743732 ONTARIO INC.								
Other Change	Other Change								
Reason / Description	Reason / Description								
	TO REMOVE THE OCN FROM THE DEBTOR DETAILS								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	2743732 ONTARIO INC.								
	Address				City	Province	Postal Code		
	298 LENNOX AVENUE				RICHMOND HILL	ON	L4C2A7		
Assignor Name	Assignor Name								
Secured Party	Secured party, lien claimant, assignee								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model		V.I.N.		
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								
	AIRD & BERLIS LLP								

Address	City	Province	Postal Code
181 BAY STREET, SUITE 1800, BOX# 754	TORONTO	ON	M5J2T9

LAST PAGE

Note: All pages have been returned.

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Appendix 15

Harrison Pensa

LAWYERS

Timothy C. Hogan

Direct Line: (519)-661-6743

thogan@harrisonpensa.com

Assistant: Aimee Newman

Direct Line: 519-850-5568

anewman@harrisonpensa.com

January 22, 2025

Via E-Mail – PGennis@spergel.ca

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

Attention: Philip H. Gennis

Dear Sir:

**Re: 2743732 Ontario Inc. (the “Debtor”)
Our File No. 196910**

This will confirm your instructions for us to review and provide an opinion to msi Spergel Inc., in its capacity as Court appointed Receiver of the Debtor, regarding the security provided by the Debtor to The Toronto- Dominion Bank (the “**Bank**”).

In preparing this opinion, we have reviewed the following documentation:

1. An Ontario *Personal Property Security Act* (“**PPSA**”) search as against the Debtor current to January 20, 2025;
2. A corporate profile of the Debtor;
3. Affidavit of Amanda Bezner, sworn April 27, 2023, in Ontario Superior Court of Justice (Commercial List) (the “**Court**”) File No. CV-23-00698068-00CL, and all exhibits to same (the “**Application**”);
4. Order of the Court in the Application dated May 15, 2023 (the “**Appointment Order**”);
5. General Security Agreement from the Debtor dated September 10, 2021 (the “**GSA**”);
6. Charge/Mortgage of land from the Debtor in the principal sum of \$3,035,000 in favour of the Bank, registered as instrument no. BS204267 (the “**Mortgage**”) on title to the following real property, municipally known as 162 Front Street, Sturgeon Falls, Ontario (the “**Real Property**”), and legally described as:
 - a. PT LT 3 CON 1 SPRINGER PT 4 - 6 36R6873 SRO & PT 4 - 6 36R7620; WEST NIPISSING ; DISTRICT OF NIPISSING (PIN: 49080-0692 (LT))
7. General Assignment of Rents & Leases dated September 14, 2021 and registered on title to the Real Property on September 14, 2021 as instrument no. BS204268 (the “**Assignment of Rents**”); and,

Harrison Pensa LLP

130 Dufferin Avenue, Suite 1101, P.O. Box 3237, London, Ontario N6A 4K3 Phone: 519.679.9660 Fax: 519.667.3362
harrisonpensa.com

8. Parcel register for the Real Property, current to January 21, 2025.

A. Assumptions and Qualifications

The comments and opinions hereafter expressed are subject to the assumptions and qualifications detailed at Schedule “A” to this letter.

B. The Debtor

The Debtor is an Ontario Corporation, with its registered office located in Richmond Hill, Ontario. The Debtor was incorporated on February 20, 2020.

C. The Personal Property Security

We have reviewed the GSA. The GSA is enforceable on its face, attachment having occurred pursuant to the provisions of the PPSA on the date of execution by the Debtor and the advance of funds by the Bank to the Debtor.

The GSA grants a continuing security interest in all of the Debtor’s present and after acquired personal property and undertaking including, without limitation, Inventory, Equipment, Accounts and Debts, and Intellectual Property (all as defined therein), and all intangibles.

An uncertified PPSA search in Ontario current to January 20, 2025, as against the Debtor shows the following registrations:

Secured Party(ies)	Debtor(s)	Reference File No. & Registration Number (Registration Period)	Collateral Classification	General Collateral Description	Amendment/Assignment Discharges/Renewals Transfer/Subordinations
The Toronto-Dominion Bank (Branch #1060)	2743732 Ontario Inc. Sergei Homiakov	776327922 - 20210913 1438 1590 4829 (5 years)	Accounts, Other		20230331 1147 1793 3963 – Amendment - To remove the OCN ¹ from the debtor details
The Toronto-Dominion Bank (Branch #1060)	2743732 Ontario Inc.	776327985 - 20210913 1439 1590 4830 (5 years)	Accounts, Other		20230331 1147 1793 3962 – Amendment - To remove the OCN from the debtor details
The Toronto-Dominion Bank (Branch #1060)	2743732 Ontario Inc.	776328021 - 20210913 1439 1590 4831 (5 years)	Accounts, Other	Assignment of term deposit and credit balances	20230331 1145 1793 3960 – Amendment - To remove the OCN from the debtor details
The Toronto-Dominion Bank (Branch #1060)	2743732 Ontario Inc.	776328039 - 20210913 1440 1590 4832 (5 years)	Inventory, Equipment, Accounts, Other, Motor Vehicle		20230331 1144 1793 3959 – Amendment - To remove the OCN from the debtor details

¹ Ontario Corporation Number (“OCN”).

The GSA and the Assignment of Rents are each perfected by the above registrations under the PPSA in favour of the Bank.

D. Real Property Security

Mortgage

The Bank is the holder of the Mortgage over the Real Property.

The Mortgage is continuing security for all obligations of the Debtor to the Bank.

Assignment of Rents

The Bank is also the holder of the Assignment of Rents. The Assignment of Rents is enforceable on its face and assigns all rents in relation to the Real Property.

We have reviewed a parcel register for the Real Property current to January 21, 2025, which shows the following:

DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
1965/01/28	Order			
1974/10/09	Plan Reference			
1976/07/27	Plan Reference			
1985/07/25	Plan Reference			
1988/02/04	Plan Reference			
2021/09/03	Transfer	\$2	2634189 Ontario Inc.	2743732 Ontario Inc.
2021/09/14	Charge	\$3,035,000	2743732 Ontario Inc.	The Toronto-Dominion Bank
2021/09/14	No Assgn Rent Gen		2743732 Ontario Inc.	The Toronto-Dominion Bank

The Mortgage and the Assignment of Rents are registered as against the Real Property.

On our review of the above summarized sub-search, we conclude that the Mortgage is a first in time registered charge as against title to the Real Property in favour of the Bank, subject to:

- a) any unregistered interest, deemed trust, and statutory created priorities and charges (including realty tax arrears);
- b) charges under the Appointment Order; and,
- c) the priorities as set out at section 78 of the *Construction Act*.

E. Summary

In summary, and subject to the foregoing, we can provide the following opinion subject to the below noted Assumptions and Qualifications:

1. The GSA and the Assignment of Rents are attached, perfected and enforceable as against the Debtor, and create a valid and registered security interest granted by the Debtor to the Bank in the collateral described therein;

2. The Mortgage is a first in time registered charge on title to the Real Property, and creates a first in time priority charge as against the Real Property, subject to the various interests or potential interests noted above; and
3. The GSA, the Mortgage and the Assignment of Rents are each subject to the charges under the Appointment Order and any statutory deemed trust that may stand in priority to same.

Yours truly,

HARRISON PENSA ^{LLP}

A handwritten signature in black ink, appearing to be the initials 'TH' with a stylized flourish.

Timothy C. Hogan
TCH

SCHEDULE "A"

ASSUMPTIONS

A. Authenticity and Accuracy

We have assumed the genuineness of all signatures, the legal capacity at all relevant times of any natural persons signing any documents and the authenticity and completeness of all documents submitted to us as copies thereof. We have also assumed the accuracy and currency of all indices, filing and registration systems maintained at the public offices where we have searched or inquired or have caused searches or inquiries to be conducted, as set forth herein, the reliability of all search results obtained by electronic transmission and the accuracy of the result of any printed or computer search of any office of public record.

B. Capacity

We have assumed that the Debtor (and where applicable third parties executing guarantees and other agreements) had the requisite capacity to enter into and perform its obligations under each of the documents as set out in the report (the "**Documents**") at the time each of the Documents were executed and delivered.

C. Security Documents

We have assumed that:

- (a) none of the Documents have been assigned, released, discharged or otherwise impaired, either in whole or in part by the Bank and there are no agreements (other than the Documents) between the Debtor and the Bank that are relevant to the matters discussed in this letter; and
- (b) none of the assets charged by the security agreements are property for which conflicts rules provide that charges or security interests in such property are governed by the laws of a jurisdiction other than the Province of Ontario.

D. Existence of Debt and Security Matters

We have assumed that:

- (a) value has been given by the Bank to the Debtor and payment and other obligations remain outstanding by the Debtor to the Bank;
- (b) each of the Documents was duly executed and delivered by the Debtor;
- (c) each of the Documents was issued for valuable consideration and that all of the conditions precedent contained in each of the Documents, if any, were satisfied or waived;

- (d) attachment of the security interests constituted by the Documents have occurred within the meaning of the PPSA;
- (e) the Debtor has an interest in the collateral expressed to be subject to each of the Documents;
- (f) insofar as any obligation under any of the Documents is to be performed in any jurisdiction outside the Province of Ontario, its performance will not be illegal or unenforceable by virtue of the laws of that other jurisdiction;
- (g) the Collateral subject to the security agreements does not include consumer goods (as defined in the PPSA); and
- (h) we have relied, without independent verification, upon matters of fact certified by public officials;
- (i) any security assigned was done so with proper and legal notice to the Debtor.

E. Factual Matters

We have assumed that no fact exists, or has existed, which would entitle the Debtor to assert or obtain a remedy at law or in equity (such as, without limitation, rectification, rescission or release from a contract through frustration) affecting the validity, legality, binding effect or enforceability of any of the Documents.

F. Entire Agreement

We have assumed that there is no written or oral agreement or other understanding and there is no trade usage or course of conduct or prior dealing, which would vary the interpretation or application of any term or condition of any of the Documents, and there have been no amendments, restatements, deletions or other modifications to any of the Documents.

G. Choice of Laws

We have assumed that the governing law of each of the Documents is the law of the Province of Ontario. Where the Province of Quebec is the governing law no opinion is provided.

QUALIFICATIONS

A. Title

We express no opinion concerning title to any property that proposes to be subject to any security constituted by the Documents and such title has been assumed to the full extent necessary to express the opinion contained herein.

B. Enforceability

All opinions which expressly or by necessity relate to the enforceability of the Documents (which, as used in this Schedule and as the context may require, includes validity, legality and binding effect) are subject to:

- (a) applicable bankruptcy, insolvency, winding up, arrangement, liquidation, fraudulent preference and conveyance, reorganization, moratorium and realization laws and other similar laws (including, without limitation and notwithstanding any specific references herein, provisions of the PPSA) at the time affecting the rights and remedies of creditors generally;
- (b) equitable limitations on, and defences against, the availability of remedies and equitable principles of application to particular proceedings at law or in equity and no opinion is expressed regarding the availability of any equitable remedy (including those of specific performance and injunction), which remedies are only available in the discretion of a court of competent jurisdiction;
- (c) the power of a court to grant relief from forfeiture;
- (d) applicable laws regarding the limitation of actions;
- (e) the court's powers to stay proceedings and execution of judgments;
- (f) the court's discretion to decline to hear any action or give effect to an obligation if to do so would be contrary to public policy or if it is not the proper forum to hear such action;
- (g) limitations which may be imposed by law or equity on the effectiveness of terms exculpating a party from a liability or limiting the liability of a party;
- (h) limitations upon the right of a creditor to receive immediate payment of amounts stated to be or which may become payable on demand;
- (i) limitations upon the right of a party to enforce a provision based upon a minor or non-substantive default;
- (j) implied obligations requiring good faith, fair-dealing and reasonableness in performance and enforcement of a contract; and

- (k) any requirement that "interest", as defined in section 347 of the *Criminal Code* (Canada), be paid at an effective annual rate in excess of 60% is not enforceable; and
- (l) the fact that a court may require that a debtor be given a reasonable time to repay following a demand for payment and prior to taking any action to enforce any right of repayment or before exercising any of the rights and remedies expressed to be exercisable in any of the Documents.

We express no opinion as to the enforceability of any provision of the Documents:

- (a) which purports to waive all defences which might be available to, or constitute a discharge of the liability of the grantor thereof;
- (b) to the extent it purports to exculpate the holder thereof, its agents or any receiver, manager or receiver-manager appointed by it from liability in respect of acts or omissions which may be illegal or fraudulent or which may involve wilful misconduct;
- (c) which states that amendments or waivers of or with respect to the Documents that are not in writing will not be effective;
- (d) which requires any person to pay, or to indemnify another person of, the costs and expenses of such other person in connection with judicial proceedings, since those provisions may derogate from a court's discretion to determine by whom and to what extent those costs should be paid; and
- (e) provisions contained in the Documents which purport to sever any provision which is prohibited or unenforceable under applicable law without affecting the enforceability or validity of the remainder of that Document may be enforced only in the discretion of a court.

A receiver or receiver and manager appointed pursuant to the provisions of the Documents may, for certain purposes, be treated by a court as being the agent of the holder thereof and not solely the agent of the grantor thereof, as applicable, and the holder thereof may not be deemed to be acting as the agent and attorney of such grantor in making such appointment, notwithstanding any agreement to the contrary.

The obligations of the parties to the Documents and the enforceability thereof are subject to qualifications which, by law, equity or usage, are incidental thereto by their nature, including, without limitation:

- (a) the parties must have exercised and must continue to exercise good faith in the negotiation, implementation and enforcement of the Documents; and
- (b) the *Currency Act* (Canada) pursuant to which a court in Canada will render judgment only in lawful money of Canada.

B. Limitations

We have made no investigation in respect of the requirements prescribed in Part IV of the *Financial Administration Act* (Canada) relating to the assignment of federal Crown debts. An assignment of federal Crown debts which does not comply with that Act is ineffective as between the assignor and the assignee and as against the Crown. Consequently, the Documents cannot validly charge federal Crown debts unless that Act is complied with.

C. Special Property, Security Interests and Registrations

1. Special Property

We express no opinion as to whether a security interest may be created in:

- (a) property consisting of a receivable, licence, approval, privilege, franchise, permit, lease or agreement (collectively, "**Special Property**") to the extent that the terms of the Special Property or any applicable law prohibit its assignment or require, as a condition of its assignability, a consent, approval or other authorization or registration which has not been made or given; or
- (b) permits, quotas or licences which are held by or issued to the Debtor.

We express no opinion as to any security interest or hypothec created by the Documents with respect to any property of the grantor thereof that is transformed in such a way that it is not identifiable or traceable or any proceeds of property of such grantor that is not identifiable or traceable.

2. Security Interests and Registrations

No searches have been made:

- (a) under the *Patent Act* (Canada), the *Trade-marks Act* (Canada), the *Industrial Designs Act* (Canada), or the *Copyright Act* (Canada),
- (b) under the *Canada Shipping Act, 2001* in respect of any vessel which is registered or recorded under that Act,
- (c) under the *Canada Transportation Act* or the *Railways Act* (Ontario) in respect of any rolling stock to which the provisions of either of those Acts may apply.

Where a motor vehicle (as defined in the Regulation under the PPSA), situate in the Province of Ontario, is sold other than in the ordinary course of business by the Debtor, and the motor vehicle is classified as "equipment" of the Debtor, a purchaser may take the motor vehicle free from any security interests created by the Documents in any such motor vehicles unless the Vehicle

Identification Numbers of the motor vehicles are set out in the PPSA registrations in favour of the Bank unless the purchaser knew that the sales constituted a breach of the Documents.

None of the Documents have been registered so as to protect and preserve any security interest, hypothec, mortgage or charge thereof against nor have we searched for any encumbrances created by the Debtor on any ship, or as against any coal, mineral, placer, mining or petroleum and natural gas lease, license or claim, owned or which may be acquired by the Debtor. Accordingly, any hypothecs, security interests and mortgages on such property will be subject to the rights of third parties who at any time acquire and perfect or render opposable to third parties an interest in those assets.

D. Collateral

No opinion is given as to as to the priority of any security interest created by the Documents, as to whether the grantor of any Document has title to or any right in any collateral or property purported to be subject to the Documents, or as to the completeness or accuracy of any description of such collateral. Accordingly, no opinion is given as to the effectiveness of the security as security, where effectiveness depends on title or description of the property purported to be charged or assigned, as the case may be.

E. Searches

We have only searched against the Debtor. We have not conducted any land titles office or other searches with respect to encumbrances against real property or any interests therein or any statutory lien, court registry or other searches.

F. Choice of Law

We have made no investigation of the laws of any jurisdiction other than, and our advice is confined to, the laws of the Province of Ontario and the federal laws of Canada applicable therein.

G. Maintaining Perfection

We express no opinion with respect to maintaining perfection of any security interest created by any of the Security Documents.

H. Priority

No opinion is expressed as to the rank or priority, or as to the effect of perfection or opposability to third parties on the rank or priority, of any security interest, mortgage or charge created by any of the Documents.

Appendix 16

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

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

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

and

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

Respondents


**AFFIDAVIT OF PHILIP H. GENNIS
(Sworn February 3, 2025)**

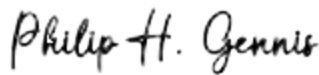
I, **PHILIP GENNIS**, of the City of Toronto, in the Province of Ontario, **MAKE OATH
AND SAY:**

1. I am a Licensed Insolvency Trustee with msi Spergel inc. ("**MSI**"), the court-appointed Receiver (the "**Receiver**") of all the assets, undertakings, and properties

of the Respondents and as such I have knowledge of the matters hereinafter deposed to.

2. MSI was appointed Receiver pursuant to the Order made by the Honourable Justice Steele of the Ontario Superior Court of Justice (Commercial List) on May 15, 2023.
3. Attached hereto as **Exhibit "1"** are true copies of the Receiver's time dockets with respect to professional fees incurred in respect of the receivership of 27343732 Ontario Inc. for the period from May 1, 2024 to and including December 31, 2024, the amount of \$45,014.12 inclusive of disbursements and HST. The professional fees represent a total of 98.50 hours at an average rate of \$404.42 per hour (excluding HST).
4. To the best of my knowledge the rates charged by MSI in connection with acting as Receiver are comparable to the rates charged by other firms in the Toronto market for the provision of similar services.
5. I make this affidavit in support of the Receiver's motion for; *inter alia*, approval of its fees and disbursements and not for an improper purpose.

SWORN BEFORE ME at the City)
of Toronto, in the Province of)
Ontario, this 3rd day of February 2025.)
)
_____)
A Commissioner, etc.)



PHILIP GENNIS

Barbara Eileen Sturge,
a Commissioner, etc. for msi Spergel inc
and Spergel & Associates Inc.
Expires September 21, 2025

**This is Exhibit “1” of the Affidavit of
PHILIP GENNIS
Sworn before me on this 3rd day of February 2025**



A Commissioner, Etc.

Barbara Eileen Sturge,
a Commissioner, etc. for msi Spergel inc
and Spergel & Associates Inc.
Expires September 21, 2025



SPERGEL

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

January 3, 2025

Invoice #: 12875

27343732 Ontario Inc.

INVOICE

RE: 2743732 Ontario Inc.

FOR PROFESSIONAL SERVICES RENDERED for the period from May 1, 2024 up to and including December 31, 2024 with respect to the Court-Appointed Receivership proceedings.

Professional Services	Hours	Hourly Rate	Total
Mukul Manchanda, CPA, CIRP, LIT	30.40	\$450.00	\$13,680.00
Philip H. Gennis, LL.B., CIRP, LIT	45.40	\$450.00	\$20,430.00
Gillian Goldblatt, CPA, CA, CIRP, LIT	1.30	\$375.00	\$487.50
Paula Amaral	13.20	\$290.00	\$3,828.00
Eileen Sturge	0.70	\$250.00	\$175.00
Dharam Tiwana	3.90	\$190.00	\$741.00
Others	2.20	\$154.55	\$340.00
Manocher Sarabi	1.40	\$110.00	\$154.00
Total Professional Services	98.50	\$404.42	\$39,835.50
HST			\$5,178.62

Total **\$45,014.12**

HST Registration #R103478103
(AA2743-R)





January 3, 2025

Invoice #: 12875

27343732 Ontario Inc.

INVOICE

INVOICE RECONCILIATION PAGE

Date	Staff	Memo	Hours	B-Rate	Amount
Professional Services					
2024-05-01	MMA	Various emails exchanged regarding the fee indemnity received from Aird Berlis. Request send to court to request date for approval of sales process.	0.50	\$450.00	\$225.00
2024-05-02	MMA	Emails exchanged with Avison Young requesting a sale and marketing proposal on the property.	0.30	\$450.00	\$135.00
2024-05-02	PGE	Email from MM requesting drafting of report to Court seeking approval of sales process; conduct and fees; preparation of NDA and email to Kelly Avison requesting Sales and Marketing Proposal; preparation of NDA and email to Malette Goring Inc., in Sudbury requesting sale and marketing proposal; telephone discussion with Kelly Avison in this regard; receipt of signed NDA from Kelly Avison; telephone discussion with Chris Tammi of Malette Goring Inc.	1.25	\$450.00	\$562.50
2024-05-02	PAM	Receive and respond to tenant regarding status of the lease if business is sold, status of sale and status of repairs to property.	0.30	\$290.00	\$87.00
2024-05-03	GGO	Receive and review bank reconciliation.	0.10	\$375.00	\$37.50
2024-05-03	PGE	Email exchange with Chris Tammi of Malette Goring RE regarding listing proposal; telephone discussion with Chris Tammi;	0.50	\$450.00	\$225.00
2024-05-04	PGE	Assembly of documents to be included in email to Kelly Avison in response to signed NDA enclosing documents to be used in providing listing proposal;	0.25	\$450.00	\$112.50
2024-05-04	MMA	Email exchanged with P. Gennis and K. Avison requesting listing proposals.	0.20	\$450.00	\$90.00
2024-05-06	MMA	Received and reviewed executed and NDA and listing proposal provided by C. Tammi.	0.50	\$450.00	\$225.00





January 3, 2025

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27343732 Ontario Inc.

INVOICE

2024-05-06	PGE	<i>Receipt of signed NDA from Malette Goring Inc. Brokerage; execution and transmittal of fully executed NDA to Malette Goring together with due diligence documents for purposes of submitting listing proposal; email exchange with Kelly Avison responding to questions related to property in advance of a listing proposal being drafted; telephone discussions with Both Chris Tammi of Malette Goring and Kelly Avison of Avison Young; receipt and review of listing proposal from Malette Goring and telephone discussion with brokerage in this regard; forwarding additional sales information to Chris Tammi of Malette Goring and requesting confirmation as to the impact of same on his listing proposal;</i>	1.50	\$450.00	\$675.00
2024-05-07	MMA	<i>Received and reviewed quote from Kenstruct to bring site to TSSA compliance. Email exchange between T. Hogan and P. Gennis regarding the draft report for the sales approval motion.</i>	0.40	\$450.00	\$180.00
2024-05-07	PGE	<i>Email exchange with Receiver's Counsel confirming May 27th court date for sale process approval motion;</i>	0.25	\$450.00	\$112.50
2024-05-08	PGE	<i>Receipt and review of Listing Proposal from Avison Young; telephone discussion with Kelly Avison regarding advisability of joint listing with Malette Goring; email from Kelly Avison confirming willingness of Malette Goring to enter into joint listing; email exchange with Ken Jamieson regarding TSSA inspection report on gas tanks; drafting First Report to Court seeking inter alia approval of a proposed sales process and transmittal to Mukul Manchanda for review and comments;</i>	4.75	\$450.00	\$2,137.50
2024-05-10	MMA	<i>Worked on draft report to court. Sent report to T. Hogan for review and comment.</i>	2.30	\$450.00	\$1,035.00
2024-05-10	PGE	<i>Email exchange with Counsel regarding draft of First Report; receipt and review of V2 of First Report with revisions from MM;</i>	0.25	\$450.00	\$112.50
2024-05-11	MMA	<i>Received and reviewed comments and feedback on the first report from T. Hogan</i>	0.50	\$450.00	\$225.00
2024-05-11	PGE	<i>Email from Counsel with revisions to V2 Draft of Report; review and implement changes to report; email to Kelly Avison confirming zero-dollar list price; telephone discussion with Kelly Avison requesting draft listing agreement and email correspondence in this regard;</i>	2.00	\$450.00	\$900.00





January 3, 2025

Invoice #: 12875

27343732 Ontario Inc.

INVOICE

2024-05-12	PGE	<i>email exchange with Kelly Avison regarding draft Listing Agreement and accompanying schedules; email to Mukul Manchanda and Counsel confirming discussion with Kelly Avison related to Listing Agreement;</i>	0.50	\$450.00	\$225.00
2024-05-13	PAM	<i>Receive and review email from Lockit Security with site visit update. Review payables, retrieve invoices to be paid and save to drive for processing.</i>	0.60	\$290.00	\$174.00
2024-05-13	MMA	<i>Email exchange with P. Gennis and T. Hogan to discuss the changes to the draft report.</i>	0.20	\$450.00	\$90.00
2024-05-13	EST	<i>Prepare documents as requested.</i>	0.70	\$250.00	\$175.00
2024-05-13	PGE	<i>Email exchange and telephone discussion with Kelly Avison regarding terms of listing agreement; review of GL and preparation of Interim SRD as an appendix to First Report; review and execution of Receiver's Fee Affidavit; Receipt and review of draft Listing Agreement sent by Avison Young; email exchange with Receiver's Counsel regarding fees to date; further revisions to First Report and transmittal to Counsel in draft; further minor revisions to First Report and transmittal to Counsel for review; email exchange with Kelly Avison regarding status of joint listing with Goring Malette; email from Tim Hogan confirming acceptance of final draft of First Report;</i>	2.75	\$450.00	\$1,237.50
2024-05-14	PAM	<i>Prepare CRA forms for Authorization on Account and opening of RT0002 account.</i>	0.50	\$290.00	\$145.00
2024-05-14	MMA	<i>Comments received from T. Hogan on the draft report. Received and reviewed fee affidavit from T. Masterson.</i>	0.40	\$450.00	\$180.00
2024-05-14	PGE	<i>Email from Kelly Avison confirming willingness of Malette Goring to share listing; receipt and review of further revisions to First Report and Notice of Motion; re-draft of First Report; receipt and review of Counsel's Fee Affidavit; assembly of all appendices; arranging for execution of First Report by Mukul Manchanda and transmittal of assembled report to Counsel for service in advance of return date;</i>	3.00	\$450.00	\$1,350.00
2024-05-15	PGE	<i>Receipt and review of Receiver's Motion Record;</i>	0.50	\$450.00	\$225.00
2024-05-15	MMA	<i>Received and reviewed invoice from A. Newman. Served motion record of the receiver.</i>	0.20	\$450.00	\$90.00
2024-05-16	PAM	<i>Receive and respond to email from tenant regarding update on status of property.</i>	0.20	\$290.00	\$58.00





January 3, 2025

Invoice #: 12875

27343732 Ontario Inc.

INVOICE

2024-05-17	PGE	<i>Receipt and review of Factum and Book of Authorities in support of motion returnable May 27th;</i>	0.25	\$450.00	\$112.50
2024-05-17	MMA	<i>Served factum and book of authorities of the receiver.</i>	0.20	\$450.00	\$90.00
2024-05-21	DTI	<i>Prepared receiver's interim report</i>	0.20	\$190.00	\$38.00
2024-05-21	PAM	<i>Email legal team regarding tenant requesting information regarding lease in event business is sold. Retrieve bills to pay from online portals and supplier and save to drive for processing by others.</i>	0.70	\$290.00	\$203.00
2024-05-22	MMA	<i>Email exchanged with P. Amaral and T. Hogan regarding the sublet of a new tenant.</i>	0.20	\$450.00	\$90.00
2024-05-22	DTI	<i>Prepare cheque requisitions for bills due.</i>	0.50	\$190.00	\$95.00
2024-05-23	MMA	<i>Served draft order of the receiver.</i>	0.10	\$450.00	\$45.00
2024-05-23	PGE	<i>Receipt and review of draft Order for May 27th hearing;</i>	0.25	\$450.00	\$112.50
2024-05-27	MMA	<i>Zoom meeting-motion for approval of sales process. Received and reviewed endorsement and order. Email exchanged with P. Gennis and K. Avison regarding the listing agreement for sale of the property. Email exchange with T. Hogan regarding loading documents onto the corporate website.</i>	0.90	\$450.00	\$405.00
2024-05-27	PGE	<i>Email from Receiver's Counsel enclosing endorsement and Order of Justice Cavanagh; email to Counsel confirming intentions relative to Listing Agreement; email to Listing Brokers confirming court approval of sales process and draft Listing Agreement and requesting listing agreement to be prepared and transmitted for signature;</i>	0.50	\$450.00	\$225.00
2024-05-28	MMA	<i>Email exchange with P. Gennis and C. Hamber regarding the draft listing agreement.</i>	0.20	\$450.00	\$90.00
2024-05-28	PGE	<i>Email from Kelly Avison in response to request for listing agreement; email exchange with Avison Young regarding advancing listing agreement and execution thereof; Email to Chris Hamber enclosing listing agreement for review and comment; responding email from Chris Hamber approving listing agreement; email to listing brokers enclosing final draft listing agreement for execution and transmittal; email from Avison Young confirming transmittal of listing agreement for execution;</i>	2.50	\$450.00	\$1,125.00
2024-05-29	DTI	<i>Prepare payment requisitions for security services provided by third party.</i>	0.20	\$190.00	\$38.00





January 3, 2025

Invoice #: 12875

27343732 Ontario Inc.

INVOICE

2024-05-30	PGE	Preparation of draft APS, Disclaimer, draft AVO and NDA for co-broker	2.00	\$450.00	\$900.00
2024-05-31	GGO	review and approve disbursements.	0.30	\$375.00	\$112.50
2024-05-31	MMA	Email exchange with C. Hamber and P. Gennis regarding the APS, APO, Disclaimer and NDA for the sales process.	0.20	\$450.00	\$90.00
2024-05-31	PGE	Transmittal of draft sale documents to Counsel for review and revision if necessary;	0.10	\$450.00	\$45.00
2024-06-03	MMA	Received and reviewed blackline draft APS and AVO from C. Hamber. Provided listing documents for data room to Avison Young. Received and reviewed comments from T. Hogan on the APS.	1.00	\$450.00	\$450.00
2024-06-03	IFR	Processing a wire.	0.20	\$150.00	\$30.00
2024-06-03	GGO	Receive and review bank reconciliation.	0.10	\$375.00	\$37.50
2024-06-03	PGE	Receipt and review of revised drafts of sale documents from Counsel; transmittal of final sale documents and environmental reports to listing brokers for inclusion in Data Room; further revisions to draft APS and transmittal of further revised version to listing brokers;	1.35	\$450.00	\$607.50
2024-06-04	GGO	Review and approve disbursement.	0.10	\$375.00	\$37.50
2024-06-04	PGE	Email exchange with Listing Broker in Sudbury;	0.50	\$450.00	\$225.00
2024-06-07	PGE	Email exchange with listing broker in Sudbury regarding arranging site visit; telephone discussion with broker regarding showings and contents of Data Room; email exchange and telephone discussion with Rocco Tuzi regarding site visit on June 8th; further email exchanges with listing broker;	0.75	\$450.00	\$337.50
2024-06-07	MMA	Various emails exchanged with C. Tammi and P. Gennis regarding access to the site for photos prior to listing going live.	0.50	\$450.00	\$225.00
2024-06-10	PGE	Review of the contents of Data Room; telephone discussion with broker in this regard;	0.50	\$450.00	\$225.00
2024-06-11	PGE	Email exchange with Avison Young regarding APS and the Data Room;	0.20	\$450.00	\$90.00
2024-06-13	DTI	Retrieve utility bills, review bills and prepare cheque requisitions to pay bills.	0.40	\$190.00	\$76.00
2024-06-13	MSR	Receipt, Review and Processing	0.20	\$110.00	\$22.00





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27343732 Ontario Inc.

INVOICE

2024-06-25	PGE		0.25	\$450.00	\$112.50
2024-06-27	PGE	<i>Receipt and review of MLS Listing Forms; execution and transmittal of MLS forms to Listing Broker;</i>	0.25	\$450.00	\$112.50
2024-06-28	PGE	<i>receipt of emails confirming arson at site; telephone discussion and email exchange with Kelly Avison regarding suspending listing and marketing activities pending completion of police and Fire Marshall investigation; internal email exchange regarding proposed discussion with Bank prior to making decision regarding suspension of marketing;</i>	1.00	\$450.00	\$450.00
2024-06-28	MMA	<i>Received email from R. Tuzi regarding fire at location. Email received from P. Amaral regarding arson at property. Email exchange with K. Avison and P. Gennis regarding listing of the property following arson.</i>	0.70	\$450.00	\$315.00
2024-06-28	PAM	<i>Receive email and calls regarding fire at gas station. Various discussions with the police, fire marshall, inspectors and tenants. Contact insurance company to advise of fire and begin claims process.</i>	2.00	\$290.00	\$580.00
2024-07-02	PGE	<i>Email exchange with ppty manager regarding damage caused by arson attack; email exchange with Kelly Avison regarding the continuation of marketing in light of fire damage to the property; receipt and review of MLS view;</i>	0.50	\$450.00	\$225.00
2024-07-02	MMA	<i>Received and reviewed images of repairs to broken windows. Received update on the marketing of the property from P. Gennis. Telephone call with the property manager.</i>	0.80	\$450.00	\$360.00
2024-07-03	IFR	<i>Deposits.</i>	0.20	\$150.00	\$30.00
2024-07-04	PAM	<i>Receive call from interested party regarding sale of gas station. Review file and note items to be completed.</i>	0.60	\$290.00	\$174.00
2024-07-05	PAM	<i>Download and save invoices and bills to be paid. Review cheque requisition prepared by others.</i>	0.30	\$290.00	\$87.00
2024-07-05	MMA	<i>Discussion with the realtor regarding an update on the sale process. Emails exchanged with A. Bezner regarding an update on the sale of the property.</i>	0.30	\$450.00	\$135.00
2024-07-08	PGE	<i>Receipt and review of MLS View and forwarding same to MM for transmittal to the Bank;</i>	0.10	\$450.00	\$45.00
2024-07-08	MMA	<i>Received MLS listing for property to share with the bank.</i>	0.20	\$450.00	\$90.00





January 3, 2025

Invoice #: 12875

27343732 Ontario Inc.

INVOICE

2024-07-09	GGO	<i>Receive and review bank reconciliation.</i>	0.10	\$375.00	\$37.50
2024-07-09	PAM	<i>Review of requisitions prepared by others.</i>	0.30	\$290.00	\$87.00
2024-07-10	GGO	<i>Review and approve disbursement.</i>	0.10	\$375.00	\$37.50
2024-07-12	PAM	<i>Coordinate site visit for realty tour with real estate agent, inspector and tenants.</i>	0.20	\$290.00	\$58.00
2024-07-15	PAM	<i>Follow up with insurance company regarding claim for accident. Email exchange with real estate agent and Lockit to coordinate a site visit.</i>	0.10	\$290.00	\$29.00
2024-07-19	PGE	<i>Receipt and review of Offer on property from Kelly Avison and accompanying emails from Kelly Avison commenting on the offer presented; forwarding emails and offer to MM and Receiver's Counsel; email exchanges with Counsel regarding provisions for inclusion in counter-offer;</i>	1.25	\$450.00	\$562.50
2024-07-19	MMA	<i>Received and reviewed APS. Email exchange with T. Hogan and P. Gennis regarding offer.</i>	0.50	\$450.00	\$225.00
2024-07-19	PAM	<i>Discussion with real estate agent regarding offer on property. Email exchange between P.Gennis and real estate agent regarding terms of sign back to offer.</i>	0.20	\$290.00	\$58.00
2024-07-21	PGE	<i>Email from Receiver's Counsel regarding provisions in APS and actions to be taken in this regard;</i>	0.10	\$450.00	\$45.00
2024-07-21	MMA	<i>Email received from T. Hogan regarding APS.</i>	0.20	\$450.00	\$90.00
2024-07-22	MMA	<i>Received and reviewed blackline version of the APS as received from C. Hamber. Email exchange with C. Hamber and P. Gennis regarding conditional date.</i>	0.50	\$450.00	\$225.00
2024-07-22	PGE	<i>Receipt and review of revised APS Counter to offer presented; email exchange with Receiver's Counsel in this regard;</i>	0.75	\$450.00	\$337.50
2024-07-24	PGE	<i>Email to Counsel regarding counter-offer;</i>	0.10	\$450.00	\$45.00
2024-07-30	MMA	<i>Received and reviewed APS.</i>	0.30	\$450.00	\$135.00
2024-07-30	PGE	<i>Email from Kelly Avison regarding sign-back of offer; telephone discussion with Kelly Avison;</i>	0.25	\$450.00	\$112.50
2024-07-31	PGE	<i>Email exchange and telephone discussion with Counsel regarding counter offer; transmittal of documents to MM for execution;</i>	0.25	\$450.00	\$112.50
2024-07-31	MMA	<i>Reviewed and executed APS.</i>	0.40	\$450.00	\$180.00





January 3, 2025

Invoice #: 12875

27343732 Ontario Inc.

INVOICE

2024-08-01	PGE	Receipt and transmittal of signed counter-offer on Sturgeon Falls ppty;	0.20	\$450.00	\$90.00
2024-08-01	GGO	Receive and review bank reconciliation.	0.10	\$375.00	\$37.50
2024-08-05	IFR	Deposits.	0.30	\$150.00	\$45.00
2024-08-06	DTI	Retrieve and review utility bill, prepare cheque requisitions to pay utility , security, legal expenses.	1.10	\$190.00	\$209.00
2024-08-06	PAM	Receive site inspection report and invoice and upload to drive.	0.10	\$290.00	\$29.00
2024-08-08	MSR	receipts, review and Processing,	0.20	\$110.00	\$22.00
2024-08-09	PAM	Review requisitions prepared by others.	0.30	\$290.00	\$87.00
2024-08-13	PAM		0.20	\$290.00	\$58.00
2024-08-13	MMA	Call with K. Avison regarding the offer. Email received from P. Hanke regarding update on offer received. Discussion with P. Hanke regarding same.	0.60	\$450.00	\$270.00
2024-08-16	PGE	Telephone discussion with Listing Broker regarding Receiver's Counter Offer; email to MMA providing update on counter offer;	0.20	\$450.00	\$90.00
2024-08-16	MMA	Received update from P. Gennis regarding a potential purchaser.	0.10	\$450.00	\$45.00
2024-08-20	MMA	Received request for update on sale from P. Hanke.	0.10	\$450.00	\$45.00
2024-09-03	GGO	Receive and review bank reconciliation.	0.10	\$375.00	\$37.50
2024-09-08	IFR	Bill payments, issue chqs.	0.40	\$150.00	\$60.00
2024-09-09	PGE	Email from MMA requesting update on listing; telephone discussion with Kelly Avison with Kelly Avison regarding listing and requesting update on same;;responding email to MMA.	0.50	\$450.00	\$225.00
2024-09-09	MMA	Email exchange with A. Bezner regarding status update on sales process.	0.20	\$450.00	\$90.00
2024-09-10	PGE	Receipt and review of sales and marketing report from Listing Broker; transmittal of report to MM for discussion with Bank	0.50	\$450.00	\$225.00
2024-09-10	MMA	Received and reviewed progress report for property.	0.10	\$450.00	\$45.00
2024-09-16	MSR	Receipts, Review and processing.	0.20	\$110.00	\$22.00
2024-09-19	PAM	Receive email from tenant reporting on damage to gas caps. Forward email to Lockit for inspection.	0.10	\$290.00	\$29.00
2024-09-20	PAM	Receive email from real estate team with offer for property.	0.10	\$290.00	\$29.00





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27343732 Ontario Inc.

INVOICE

2024-09-20	PGE	<i>Receipt and review of offer for the property; review of recommendations from listing broker regarding proposed counter-offer and internal discussion and email discussion with Mukul Manchanda in this regard;</i>	0.50	\$450.00	\$225.00
2024-09-20	MMA	<i>Received and reviewed offer and feedback from K. Avison. Lengthy call with K. AVison. Call with P. Hanke regarding the offer.</i>	1.20	\$450.00	\$540.00
2024-09-24	PGE	<i>Email exchange with Lawrie Insurance regarding need for urgent coverage given the abrupt cancellation of current policy;</i>	0.20	\$450.00	\$90.00
2024-09-24	MMA	<i>Email sent to C. Brownlee requesting insurance on the property.</i>	0.10	\$450.00	\$45.00
2024-09-25	PGE	<i>Email exchange with Lawrie Insurance and telephone discussions with Chad Brownlee in this regard;</i>	0.50	\$450.00	\$225.00
2024-09-25	PAM	<i>Disucssion with fire Marque Inc regarding insurance coverage for fire incident.</i>	0.40	\$290.00	\$116.00
2024-09-26	MMA	<i>Phone call with P. Hanke regarding file.</i>	0.50	\$450.00	\$225.00
2024-09-30	GGO	<i>Receive and review bank reconciliation.</i>	0.10	\$375.00	\$37.50
2024-09-30	PAM	<i>Receive and review email from real estate agent regarding offer for purchase of prope</i>	0.20	\$290.00	\$58.00
2024-09-30	MSR	<i>Preparing and reviewing documents as requested.</i>	0.40	\$110.00	\$44.00
2024-09-30	PGE	<i>Follow-up emails with Lawrie Insurance; email exchange with Listing Broker enclosing re-submitted offer; and discussion regarding proposed counter-offer; further email exchange with Listing Broker regarding Receiver's position and agreement to accept offer price; email exchange with Listing Broker enclosing counter offer</i>	0.50	\$450.00	\$225.00
2024-09-30	MMA	<i>Received and reviewed offer and recommendation from K. Avison. Spoke with bank and received approval to accept offer. Reviewed amended APS for changes discussed, executed amended APS.</i>	1.20	\$450.00	\$540.00
2024-10-01	PAM	<i>Review emails with status of claims and prepare summary for insurance. Discuss status of insurance with P.Gennis and contact insurance company to request quote.</i>	0.60	\$290.00	\$174.00
2024-10-01	PGE	<i>Receipt and review of signed APS; email exchange with Listing Broker; internal email exchange with MMA with respect to MOE and sale approval process; email exchange with Ken Jameson regarding emptying fuel tanks;</i>	0.50	\$450.00	\$225.00





January 3, 2025

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27343732 Ontario Inc.

INVOICE

2024-10-01	MMA	<i>Receipt, reviewed and edited the form of offer. Signed offer sent to N. Sanders. Email exchange with P. Gennis regarding having the MOE in agreement prior to the court approval process.</i>	1.30	\$450.00	\$585.00
2024-10-02	PGE	<i>Email exchange with insurance broker regarding outstanding requirements for him to bind insurance coverage; receipt, review and execution of insurance application and transmittal of same to broker with instructions to bind coverage; internal communication regarding binding of coverage;</i>	0.75	\$450.00	\$337.50
2024-10-02	MMA	<i>Received email from P. Gennis providing insurance update.</i>	0.10	\$450.00	\$45.00
2024-10-02	PAM	<i>Emails related to insurance coverage and renewal of same. Source information related to property condition, materials and age required for insurance and submit to insurance company.</i>	1.20	\$290.00	\$348.00
2024-10-03	PGE	<i>Receipt and review of insurance binder from Lawrie Insurance; email from Listing Broker with questions put forward by prospective purchaser;</i>	0.20	\$450.00	\$90.00
2024-10-03	PAM	<i>Receive email from insurance company and save invoice to drive for processing. Receive and respond to email from real estate agent with questions from potential purchaser.</i>	0.40	\$290.00	\$116.00
2024-10-04	PGE	<i>Email exchange regarding payment of utilities and transmittal of COI with respect to tenant;</i>	0.20	\$450.00	\$90.00
2024-10-05	PGE	<i>Email to Counsel to set up call regarding interaction with MOE with respect to any potential sale of property;</i>	0.10	\$450.00	\$45.00
2024-10-07	PGE	<i>Email from Kelly Avison forwarding copy of fully executed APS with respect to receivership lands; email response enclosing wire transfer coordinates for pre-filing account;</i>	0.25	\$450.00	\$112.50
2024-10-07	MMA	<i>Zoom meeting with T. Hogan and P. Gennis to discuss file. Received and reviewed fully executed APS from K. Avison. Wire transfer coordinates sent to K. Avison for deposit on purchase.</i>	0.60	\$450.00	\$270.00
2024-10-07	PAM	<i>Receive email from Lockit Security with update on site inspection and save to drive.</i>	0.10	\$290.00	\$29.00
2024-10-08	PGE	<i>Email with Receiver's Counsel regarding executed APS; email to Receiver's Counsel with fully executed APS attached.</i>	0.20	\$450.00	\$90.00
2024-10-08	MMA	<i>Review and edit the APS. Forwarded fully accepted APS to T. Hogan.</i>	0.90	\$450.00	\$405.00





SPERGEL

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

January 3, 2025

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27343732 Ontario Inc.

INVOICE

2024-10-09	PGE	Receipt and review of email from listing broker with letter from Purchaser attaching outlining intended use of the property; transmittal of letter to MM and Counsel for Receiver;	0.25	\$450.00	\$112.50
2024-10-09	PAM	Discussion with Lockit regarding status of roof repairs and deficiencies.	0.30	\$290.00	\$87.00
2024-10-10	PGE	Email to insurance adjuster requesting update on claims;	0.10	\$450.00	\$45.00
2024-10-10	MMA	Email to insurance company to follow up on claim status. Request for update on sale received from P. Hanke.	0.20	\$450.00	\$90.00
2024-10-11	IFR	Deposits, Issue chqs.	0.40	\$150.00	\$60.00
2024-10-18	DTI	Prepare Receiver's interim reports 246(2)	0.30	\$190.00	\$57.00
2024-10-23	PAM	Contact insurance company to request status of refund. Contact insurance adjuster to request status of claim.	0.50	\$290.00	\$145.00
2024-10-24	PGE	Email to Receiver's Counsel regarding connecting with MOE;	0.10	\$450.00	\$45.00
2024-10-25	MSR	Preparing and reviewing documents as requested.	0.40	\$110.00	\$44.00
2024-10-25	PGE	Telephone discussion with Listing Broker regarding release of Purchaser's plans for the ppty to MOE; receipt and review of Purchaser's letter summarizing use to be made of ppty; receipt of confirmation for release of info from Purchaser;	0.75	\$450.00	\$337.50
2024-10-25	MMA	Email exchanged with P. Gennis and T. Hogan regarding letter received from prospective purchaser regarding MOE.	0.20	\$450.00	\$90.00
2024-10-26	PGE	Email from Counsel with draft letter to MOE and enclosures; responding to draft;	0.25	\$450.00	\$112.50
2024-10-26	MMA	Received and reviewed draft letter to be sent to the MOE regarding sale of property.	0.30	\$450.00	\$135.00
2024-10-28	PGE	Email exchange with Counsel regarding correspondence to MOE;	0.10	\$450.00	\$45.00
2024-10-28	MMA	Email exchange with A. Bezner regarding update on sale transaction. Draft email received from T. Hogan to be sent to MOE. Approved same. Discussion with A&A regarding information to be shared with MOE and TSSA.	1.30	\$450.00	\$585.00
2024-11-01	MMA	Dealt with issues related to environmental contamination and discussion with MOE regarding same.	0.30	\$450.00	\$135.00





January 3, 2025

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INVOICE

2024-11-04	MMA	<i>Email exchange with K. Avison regarding financing of the potential purchaser. Discussion regarding insurance claim and proceeds arising therefrom.</i>	0.70	\$450.00	\$315.00
2024-11-05	MMA	<i>Emails exchanged with K. Avison and B. Gardent regarding offer received.</i>	0.50	\$450.00	\$225.00
2024-11-06	HSI		0.40	\$175.00	\$70.00
2024-11-06	GGO	<i>Receive and review bank reconciliation.</i>	0.10	\$375.00	\$37.50
2024-11-06	PGE	<i>Email exchange between Receiver's Counsel and internal counsel at MOE;</i>	0.20	\$450.00	\$90.00
2024-11-06	MMA	<i>Received approval from B. Gardent to proceed with offer received. Advised K. Avison of same. Email exchange with T. Hogan and P. McCulloch regarding remediation.</i>	0.50	\$450.00	\$225.00
2024-11-12	MMA	<i>Emails exchanged with P. Amaral and J. Arce regarding the insurance claim.</i>	0.20	\$450.00	\$90.00
2024-11-13	PAM	<i>Receive email regarding heat in repair shop. Email Lockit to investigate.</i>	0.20	\$290.00	\$58.00
2024-11-14	PAM	<i>Prepare requisitions for payments of utilities and other payables and submit for approval and processing.</i>	0.80	\$290.00	\$232.00
2024-11-14	MMA	<i>Emails exchanged with A. Bezner regarding update from MOE.</i>	0.20	\$450.00	\$90.00
2024-11-18	PGE	<i>Email exchange with Counsel regarding proposed conference call with MOE;</i>	0.10	\$450.00	\$45.00
2024-11-18	PAM	<i>Coordinate access with inspector to allow purchaser to visit property.</i>	0.10	\$290.00	\$29.00
2024-11-18	MMA	<i>Email exchange with T. Hogan and S. Haslam to set up meeting.</i>	0.20	\$450.00	\$90.00
2024-11-19	DTI	<i>Review bills received, investigate and resolve discrepancies, prepare cheque requisitions.</i>	1.20	\$190.00	\$228.00
2024-11-20	MMA	<i>Review and approve cheque requisitions.</i>	0.30	\$450.00	\$135.00
2024-11-22	PGE	<i>Call with MOE regarding sale of ppty; email exchange with A&A Environmental requesting confirmation of no TSSA work orders;</i>	0.25	\$450.00	\$112.50
2024-11-22	MMA	<i>Phone call with T. Hogan to go over documents in advance of call with MOE. Teams meeting with S. Haslam, T. Hogan, S. Morgan and P. Gennis to discuss file.</i>	1.50	\$450.00	\$675.00





January 3, 2025

Invoice #: 12875

27343732 Ontario Inc.

INVOICE

2024-11-25	PAM	Review rents received from tenant. Email tenant regarding missed rent payments and unauthorized repairs.	0.40	\$290.00	\$116.00
2024-11-25	MMA	Email exchange with P. Amaral and J. Guenette regarding heat in the unit. Dealt with operational and ancillary issues. Responded to various inquiries about the property.	1.00	\$450.00	\$450.00
2024-11-26	PAM	Receive and respond to email from real estate agent regarding heat in property. Discuss same with Lockit.	0.20	\$290.00	\$58.00
2024-11-26	PGE	Email from Listing Broker regarding building concerns; email exchange with Steve Scott and A&A regarding TSSA; email exchange with Receiver's Counsel regarding TSSA issue; email exchange and telephone discussion with Ken Jamieson regarding TSSA requirements;	1.00	\$450.00	\$450.00
2024-11-27	PGE	Telephone discussion with Ken Jamieson regarding TSSA requirements and receipt of email in this regard; forwarding Jamieson email to Receiver's Counsel; email exchange with Tim Hogan with respect to Purchaser's intentions with respect to the operation of a gas bar; email from Lawrie Insurance enclosing insurance policy issued further to previously issued binder;	1.25	\$450.00	\$562.50
2024-11-27	MMA	Email exchange with T. Hogan and P. Gennis regarding intended use of property and remediation.	0.20	\$450.00	\$90.00
2024-11-28	PAM	Prepare requisitions for payments of payables. Review other payables and confirm payments and request processing of outstanding payments.	0.10	\$290.00	\$29.00
2024-11-28	PGE	Email to Listing Brokers enclosing TSSA documents with a request that they be sent to Purchaser; email to TSSA contact on inspection report;	0.20	\$450.00	\$90.00
2024-11-28	MMA	Email exchange with P. Gennis and J. Dionne requesting contact to discuss sale of property. Reviewed and authorized cheque requisitions.	0.50	\$450.00	\$225.00
2024-11-29	PGE	Email exchange with TSSA regarding proposed sale of property; email exchange with Listing Broker with respect to TSSA requirements;	0.50	\$450.00	\$225.00
2024-11-29	MMA	Email exchange with J. Dionne and P. Gennis regarding change of ownership application. Teams meeting with C. Frazer to discuss supplemental delineation report.	1.20	\$450.00	\$540.00





January 3, 2025

Invoice #: 12875

27343732 Ontario Inc.

INVOICE

2024-12-03	MMA	<i>Review of email exchanges between K. Avison, T. Hogan and P. Gennis regarding the TSSA issue and requirement underlying the TSSA's report.</i>	0.40	\$450.00	\$180.00
2024-12-03	GGO	<i>Receive and review bank reconciliation.</i>	0.10	\$375.00	\$37.50
2024-12-03	IFR	<i>Deposits, Issue chq</i>	0.30	\$150.00	\$45.00
2024-12-03	PGE	<i>Email exchange between Receiver's Counsel and TSSA; telephone discussion and email exchange with Listing Broker regarding purchaser conducting pre-closing repairs; email from Receiver's Counsel regarding full disclosure on TSSA issues; email to Listing Broker confirming that the proposed sale is not offside TSSA;</i>	0.75	\$450.00	\$337.50
2024-12-03	PAM	<i>Source snow plowing companies. Receive and review quotes and discuss quote and request contract. Receive contract for snow plowing and forward to legal counsel for review and comments.</i>	0.50	\$290.00	\$145.00
2024-12-08	PGE	<i>DEmail from Listing Broker enclosing letter from purchaser requesting reduction in purchase price due to additional work required by TSSA; telephone discussion with Listing Broker in this regard;</i>	0.60	\$450.00	\$270.00
2024-12-08	MMA	<i>Email exchanges with K. Avison regarding offer for the property and go forward strategy.</i>	0.20	\$450.00	\$90.00
2024-12-09	PAM	<i>Receive and review contract from snow plowing company and forward to legal team for review.</i>	0.20	\$290.00	\$58.00
2024-12-09	PGE	<i>Email to Receiver's Counsel regarding need for court date; email exchange between Receiver's Counsel and Counsel for Debtor; further email exchange with Counsel for Debtor regarding status of insurance claims;</i>	0.50	\$450.00	\$225.00
2024-12-09	MMA	<i>Email exchanges regarding a snow removal contract.</i>	0.20	\$450.00	\$90.00
2024-12-10	PGE	<i>Email exchange between Receiver's Counsel and Counsel for Debtor; email to Receiver's Counsel enclosing executed APS;</i>	0.30	\$450.00	\$135.00
2024-12-11	PGE	<i>Email from Listing Broker regarding purchaser's request for reduction in purchase price; further emails in this regard between Receiver and Receiver's Counsel;</i>	0.25	\$450.00	\$112.50
2024-12-11	MMA	<i>Review of email exchanges between T. Hogan and M. Harris regarding the offer and the position of the Debtor regarding same. Email exchanges with the insurance adjuster.</i>	0.30	\$450.00	\$135.00





SPERGEL

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T: 416 497 1660 ● F: 416 494 7199
www.spergel.ca

January 3, 2025

Invoice #: 12875

27343732 Ontario Inc.

INVOICE

2024-12-12	PAM	<i>Review snow plowing contract revised by legal team and forward to contractor for approval. Finalize contract and send to contractor.</i>	0.20	\$290.00	\$58.00
2024-12-15	PGE	<i>Further email exchange between Receiver's Counsel and Counsel for Debtor regarding obtaining consent to AVO application and execution of NDA with respect to information requested;</i>	0.25	\$450.00	\$112.50
2024-12-15	MMA	<i>Review of email exchanges between T. Hogan and M. Harris regarding the confidentiality undertaking.</i>	0.30	\$450.00	\$135.00
2024-12-17	PGE	<i>Follow-up email to Receiver's Counsel regarding court date for sale approval motion;</i>	0.10	\$450.00	\$45.00
2024-12-18	PGE	<i>Email from Receiver's Counsel to Counsel for owner regarding Confidentiality Undertaking;</i>	0.10	\$450.00	\$45.00
2024-12-23	PGE	<i>Email exchange with Listing Broker; email exchange between Receiver's Counsel and Counsel for owner; email to Receiver's Counsel regarding the fact that appraisals were prepared before environmental issues had been formalized; email exchange between Receiver's Counsel and Receiver regarding need for additional appraisals;</i>	1.00	\$450.00	\$450.00
Professional Services Total:			98.50		\$39,835.50



Appendix 17

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

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

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

Respondents

**AFFIDAVIT OF THOMAS MASTERSON
(Sworn February 5, 2025)**

I, **THOMAS MASTERSON**, of the City of London, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a solicitor qualified to practice law in the Province of Ontario and I am a lawyer with Harrison Pensa ^{LLP}, who acts as counsel for msi Spergel inc., in its capacity as Court-Appointed Receiver of the Respondent, 2743732 Ontario Inc., in the within proceeding, and as such I have knowledge of the matters to which I hereinafter depose except for those matters based expressly upon information and belief.
2. Attached hereto and marked as **Exhibit "A"** is a summary of the time incurred by professionals at Harrison Pensa ^{LLP}, the hourly rate and fees associated with such and disbursements in relation with this matter for the period of May 14, 2024 to June 6, 2024.
3. Attached hereto and marked as **Exhibit "B"** are particulars of time spent by professionals at Harrison Pensa ^{LLP} in connection with this matter for the period of May 14, 2024 to June 6, 2024 and an account statement detailing the services provided dated June 19, 2024.

4. Attached hereto and marked as **Exhibit “C”** is a summary of the time incurred by professionals at Harrison Pensa ^{LLP}, the hourly rate and fees associated with such and disbursements in relation with this matter for the period of June 28, 2024 to November 6, 2024.
5. Attached hereto and marked as **Exhibit “D”** are particulars of time spent by professionals at Harrison Pensa ^{LLP} in connection with this matter for the period of June 28, 2024 to November 6, 2024 and an account statement detailing the services provided dated November 12, 2024.
6. Attached hereto and marked as **Exhibit “E”** is a summary of the time incurred by professionals at Harrison Pensa ^{LLP}, the hourly rate and fees associated with such and disbursements in relation with this matter for the period of November 22, 2024 to February 5, 2025.
7. Attached hereto and marked as **Exhibit “F”** are particulars of time spent by professionals at Harrison Pensa ^{LLP} in connection with this matter for the period of November 22, 2024 to February 5, 2025 and an account statement detailing the services provided dated February 5, 2025.
8. The hourly billing rates set out in the Exhibits are comparable to the hourly rates charged by Harrison Pensa ^{LLP} for services rendered in relation to similar proceedings.
9. The fees and disbursements of Harrison Pensa ^{LLP} in this matter to February 5, 2025 are as follows:
 - a. Total Billed Fees and Disbursements from May 14, 2024 to June 6, 2024 - \$9,765.46;
 - b. Total Billed Fees and Disbursements from June 28, 2024 to November 6, 2024 - \$3,791.15; and,
 - c. Total Billed Fees and Disbursements from November 22, 2024 to February 5, 2025 - \$11,118.26;

Total: \$24,674.87.
10. The weighted average hourly rate charged by professionals at Harrison Pensa ^{LLP} is \$413.90.

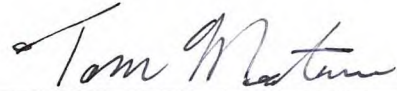
11. I make this Affidavit in support of among other things, approval of fees and disbursements of the counsel for the Receiver.

Sworn before me: in person OR by video conference

by Thomas Masterson at the City of London, in the County of Middlesex, before me on February 5, 2025.



Commissioner for Taking Affidavits



THOMAS MASTERSON

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

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

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

Respondents

EXHIBITS

TABS "A" TO "F" ARE THE
EXHIBITS TO THE AFFIDAVIT OF
THOMAS MASTERSON
SWORN THIS 5th DAY OF FEBRUARY, 2025



A Commissioner for taking Affidavits

EXHIBIT A

(From May 14, 2024 to June 6, 2024)

	NAME	YEAR OF CALL	ACTUAL HOURS	HOURLY RATE	TOTAL
Partners	Timothy C. Hogan	1995	5.10	\$550.00	\$2,805.00
	Christian J. Hamber	1995	5.80	\$550.00	\$3,190.00
Associates	Thomas Masterson	2019	3.40	\$325.00	\$1,105.00
Clerks	Isabelle Stacey		6.90	\$180.00	\$1,242.00
TOTAL FEES					\$8,342.00
HST ON FEES					\$1,084.46
TOTAL TAXABLE DISBURSEMENTS					\$0.00
TOTAL NON – TAXABLE DISBURSEMENTS					\$339.00
HST DISBURSEMENTS					\$0.00
TOTAL FEES, DISBURSEMENTS AND HST					\$9,765.46

EXHIBIT B

Harrison Pensa

LAWYERS

130 Dufferin Avenue, Suite 1101
P.O. Box 3237
London, ON N6A 4K3

Telephone: (519) 679 9660
Facsimile: (519) 667 3362

msi Spergel inc.

June 19, 2024
Invoice #: 2233039
Account #: 2233039-196910

File #: 196910/Timothy C. Hogan
RE: 2743732 Ontario Inc.

TO ALL PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter, including:

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
14-May-24	Review/revise notice of motion, report	.50	\$275.00	TCH
14-May-24	To send email correspondence to client	.20	\$65.00	THM
14-May-24	To draft and prepare Fee Affidavit	.70	\$227.50	THM
14-May-24	To draft service list;	.40	\$72.00	IST
14-May-24	Telephone correspondence with client	.30	\$97.50	THM
15-May-24	Review motion record	.30	\$165.00	TCH
15-May-24	To draft AOS;	.20	\$36.00	IST
15-May-24	To serve and file;	.30	\$54.00	IST
15-May-24	To compile confidential appendices;	.50	\$90.00	IST
15-May-24	To compile motion record;	.70	\$126.00	IST
15-May-24	To draft Factum	1.80	\$585.00	THM
16-May-24	To call with client;	.20	\$36.00	IST
16-May-24	To update motion materials;	.40	\$72.00	IST
16-May-24	Review/revise factum	.50	\$275.00	TCH
17-May-24	To finalize Factum & BOA;	.30	\$54.00	IST
17-May-24	To draft Order;	.50	\$90.00	IST
17-May-24	To finalize confidential appendices;	.20	\$36.00	IST
17-May-24	To serve and file;	.20	\$36.00	IST
17-May-24	To draft AOS;	.10	\$18.00	IST

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
18-May-24	Review/revise order	.40	\$220.00	TCH
21-May-24	To tab and hyperlink;	.20	\$36.00	IST
21-May-24	To update CaseLines;	.40	\$72.00	IST
21-May-24	To email correspondence;	.20	\$36.00	IST
21-May-24	To update Order;	.30	\$54.00	IST
22-May-24	Review confidential report	.40	\$220.00	TCH
22-May-24	To update service list;	.20	\$36.00	IST
22-May-24	To email court;	.20	\$36.00	IST
22-May-24	To finalize confidential appendices;	.50	\$90.00	IST
22-May-24	To revise draft Order	.40	\$130.00	THM
23-May-24	Review Order	.20	\$110.00	TCH
23-May-24	E-mails with client re tenant	.40	\$220.00	TCH
23-May-24	To email correspondence;	.20	\$36.00	IST
23-May-24	To update CaseLines;	.10	\$18.00	IST
27-May-24	Calls with client, prepare for motion	.80	\$440.00	TCH
27-May-24	Attend Court	.40	\$220.00	TCH
27-May-24	To update CaseLines;	.10	\$18.00	IST
27-May-24	E-mail from Court, to client	.40	\$220.00	TCH
27-May-24	To email correspondence;	.10	\$18.00	IST
28-May-24	To file;	.20	\$36.00	IST
28-May-24	To email counsel;	.20	\$36.00	IST
28-May-24	To emails from and to Receiver re draft listing agreement;	.40	\$220.00	CJH
28-May-24	To review and revise listing agreement;	.50	\$275.00	CJH
31-May-24	To emails from and to Receiver re draft APS, NDA and other documents;	.40	\$220.00	CJH
31-May-24	E-mails with client	.20	\$110.00	TCH
3-Jun-24	Review/revise APS, e-mail to client	.60	\$330.00	TCH
3-Jun-24	To review and revise APS;	1.50	\$825.00	CJH
3-Jun-24	To review and revise draft AVO;	.50	\$275.00	CJH
3-Jun-24	To review disclaimer and NDA agency disclosure;	.40	\$220.00	CJH
3-Jun-24	To emails to and from Receiver re revised documents and comments;	.50	\$275.00	CJH
3-Jun-24	To emails from and to Receiver re additional environmental clauses in APS;	.70	\$385.00	CJH

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
3-Jun-24	To review and revise APS;	.50	\$275.00	CJH
6-Jun-24	To email from Colliers re Purchaser comments on APS;	.40	\$220.00	CJH
Total Fees:			\$ 8,342.00	
Plus GST:			0.00	
Plus HST:			<u>1,084.46</u>	
Total Fees (INCL TAX)				\$ <u>9,426.46</u>

FEE SUMMARY:

LAWYER	HOURS	RATE	AMOUNT
Christian J. Hamber	5.80	\$550.00	\$3,190.00
Timothy C. Hogan	5.10	\$550.00	\$2,805.00
Thomas Masterson	3.40	\$325.00	\$1,105.00
Isabelle Stacey	6.90	\$180.00	\$1,242.00


NON-TAXABLE DISBURSEMENTS

File Motion Record	\$339.00	
Total Non-Taxable Disbursements	<u>\$339.00</u>	
Total Disbursements		\$ <u>339.00</u>

TOTAL DUE & OWING **\$ 9,765.46**

THIS IS OUR ACCOUNT HEREIN

HARRISON PENZA LLP

Per: 

 Timothy C. Hogan

E. & O.E.

**Harrison Pensa LLP is a registered payee with most Canadian banks.
 Payment can be made online through your bank's website or mobile app.**

GST / HST REGISTRATION NO: R867630543
 Interest of 5.3% is charged based on the Courts of Justice Act at time of billing on all invoices over 30 days

TERMS: DUE UPON RECEIPT
Cheque, Mastercard and VISA also accepted.

Please make cheque payable to:
 HARRISON PENZA LLP, 130 Dufferin Ave., Suite 1101, P.O. Box 3237, London ON N6A 4K3

EXHIBIT C

(From June 28, 2024 to November 6, 2024)

	NAME	YEAR OF CALL	ACTUAL HOURS	HOURLY RATE	TOTAL
Partners	Timothy C. Hogan	1995	2.90	\$550.00	\$1,595.00
	Christian J. Hamber	1995	3.20	\$550.00	\$1,760.00
TOTAL FEES					\$3,355.00
HST ON FEES					\$436.15
TOTAL TAXABLE DISBURSEMENTS					\$0.00
TOTAL NON – TAXABLE DISBURSEMENTS					\$0.00
HST DISBURSEMENTS					\$0.00
TOTAL FEES, DISBURSEMENTS AND HST					\$3,791.15

EXHIBIT D

Harrison Pensa

LAWYERS

130 Dufferin Avenue, Suite 1101
P.O. Box 3237
London, ON N6A 4K3

Telephone: (519) 679 9660
Facsimile: (519) 667 3362

msi Spergel inc.

November 12, 2024
Invoice #: 2238496
Account #: 2238496-196910

File #: 196910/Timothy C. Hogan
RE: 2743732 Ontario Inc.

TO ALL PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter, including:

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
28-Jun-24	E-mails with client	.20	\$110.00	TCH
19-Jul-24	E-mails with client	.40	\$220.00	TCH
19-Jul-24	To review emails from and to Receiver re APS and proposed amendments;	.50	\$275.00	CJH
21-Jul-24	Review Sale agreement, e-mail to client	.40	\$220.00	TCH
22-Jul-24	To review and revise APS and circulate revised copies to Receiver;	1.00	\$550.00	CJH
22-Jul-24	To further emails from and to Receiver re condition date and counter-offer;	.30	\$165.00	CJH
24-Jul-24	E-mail from client	.20	\$110.00	TCH
25-Jul-24	To email from Receiver re counter-offer;	.30	\$165.00	CJH
31-Jul-24	To calls from and to Receiver re proposed counter-offer;	.40	\$220.00	CJH
31-Jul-24	To review and revise counter-offer;	.40	\$220.00	CJH
31-Jul-24	To email to Receiver re counter-offer for signing;	.30	\$165.00	CJH
29-Aug-24	Call with client	.20	\$110.00	TCH
8-Oct-24	Call with client	.40	\$220.00	TCH
25-Oct-24	Call with client	.20	\$110.00	TCH
26-Oct-24	E-mails with client and to MOE	.50	\$275.00	TCH
28-Oct-24	E-mail to MOE	.20	\$110.00	TCH
6-Nov-24	E-mail to MOE	.20	\$110.00	TCH

Total Fees:	\$	3,355.00	
Plus GST:		0.00	
Plus HST:		<u>436.15</u>	
Total Fees (INCL TAX)			<u>\$ 3,791.15</u>


FEE SUMMARY:

LAWYER	HOURS	RATE	AMOUNT
Christian J. Hamber	3.20	\$550.00	\$1,760.00
Timothy C. Hogan	2.90	\$550.00	\$1,595.00

TOTAL DUE & OWING **\$ 3,791.15**

THIS IS OUR ACCOUNT HEREIN

HARRISON PENSA LLP

Per: 

Timothy C. Hogan

E. & O.E.

PLEASE REMIT PAYMENT TO HARRISON PENSA LLP

Invoices are due upon receipt

Payment can be made through bill payment on your bank's website or mobile app. Harrison Pensa LLP is registered as a payee with most Canadian banks.

Credit card payments can be made through our online payment portal: www.harrisonpensa.com/make-a-payment/

Cheques can be made payable to HARRISON PENSA LLP

GST / HST REGISTRATION NO: R867630543
Interest of 4.8% is charged based on the Courts of Justice Act at time of billing on all invoices over 30 days

EXHIBIT E

(From November 22, 2024 to February 5, 2025)

	NAME	YEAR OF CALL	ACTUAL HOURS	HOURLY RATE	TOTAL
Partners	Timothy C. Hogan	1995	10.40	\$550.00	\$5,720.00
	Christian J. Hamber	1995	2.60	\$550.00	\$1,430.00
Associates	Thomas Masterson	2019	3.70	\$325.00	\$1,202.50
Clerks	Olivia Rajsp		0.30	\$215.00	\$64.50
	Sydney Inghelbrecht		1.80	\$165.00	\$297.00
	Nicole Clayton		0.30	\$165.00	\$49.50
Students	Areeb Daimee		1.50	\$175.00	\$262.50
	Kinsey Greenfield		3.40	\$150.00	\$510.00
TOTAL FEES					\$9,536.00
HST ON FEES					\$1,239.68
TOTAL TAXABLE DISBURSEMENTS					\$281.93
TOTAL NON – TAXABLE DISBURSEMENTS					\$24.00
HST DISBURSEMENTS					\$36.65
TOTAL FEES, DISBURSEMENTS AND HST					\$11,118.26

EXHIBIT F

Harrison Pensa

LAWYERS

130 Dufferin Avenue, Suite 1101
P.O. Box 3237
London, ON N6A 4K3

Telephone: (519) 679 9660
Facsimile: (519) 667 3362

msi Spergel inc.

February 5, 2025
Invoice #: 2241809
Account #: 2241809-196910

File #: 196910/Timothy C. Hogan
RE: 2743732 Ontario Inc.

TO ALL PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter, including:

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
22-Nov-24	Calls/e-mails with client/MOE	.50	\$275.00	TCH
26-Nov-24	Call/e-mail from client	.40	\$220.00	TCH
3-Dec-24	E-mails with Client and TSSA;	.40	\$220.00	TCH
9-Dec-24	E-mail from client, e-mail to counsel	.40	\$220.00	TCH
9-Dec-24	To revise Indemnity Agreement	1.20	\$390.00	THM
10-Dec-24	E-mail to counsel	.20	\$110.00	TCH
10-Dec-24	Call with client	.20	\$110.00	TCH
12-Dec-24	Call with client	.40	\$220.00	TCH
12-Dec-24	Review/revise indemnity, e-mail to client	.40	\$220.00	TCH
13-Dec-24	Drafted confidentiality undertaking re: drafted document, searched for and reviewed agreement.	1.50	\$262.50	ard
15-Dec-24	Review/revise undertaking, e-mail to counsel	.50	\$275.00	TCH
23-Dec-24	E-mails with counsel/calls with client	.80	\$440.00	TCH
3-Jan-25	E-mail to counsel	.20	\$110.00	TCH
7-Jan-25	E-mail from counsel/to client	.20	\$110.00	TCH
8-Jan-25	E-mails with debtor counsel and client	.40	\$220.00	TCH
8-Jan-25	Call with client	.20	\$110.00	TCH
14-Jan-25	E-mail with TSSA	.20	\$110.00	TCH
14-Jan-25	E-mail to counsel	.20	\$110.00	TCH
14-Jan-25	E-mail with counsel	.20	\$110.00	TCH

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
16-Jan-25	Amend confirmation/e-mail to Court	.40	\$220.00	TCH
16-Jan-25	E-mail to client	.20	\$110.00	TCH
16-Jan-25	To draft documents and send e-mail correspondence;	.70	\$115.50	SIN
17-Jan-25	Review/revise report, e-mail to client	1.50	\$825.00	TCH
17-Jan-25	E-mails with Court	.20	\$110.00	TCH
19-Jan-25	E-mail from counsel/to client	.20	\$110.00	TCH
20-Jan-25	To send e-mail correspondence;	.50	\$82.50	SIN
20-Jan-25	To send e-mail correspondence;	.20	\$33.00	SIN
20-Jan-25	To send e-mail correspondence;	.20	\$33.00	SIN
20-Jan-25	Call with client	.20	\$110.00	TCH
21-Jan-25	E-mails with client	.20	\$110.00	TCH
21-Jan-25	To obtain PPSA report; To obtain profile report;	.20	\$43.00	ORA
21-Jan-25	To draft documents;	.20	\$33.00	SIN
21-Jan-25	E-mail from Court/with client	.20	\$110.00	TCH
21-Jan-25	To order new searches, organize documents, and draft security report to receiver.	3.20	\$480.00	KGR
21-Jan-25	To review and revise Security Opinion	.80	\$260.00	THM
21-Jan-25	To emails and calls from and to Receiver re AVO and title;	.40	\$220.00	CJH
21-Jan-25	To review title and review and revise AVO;	.50	\$275.00	CJH
22-Jan-25	To send security report to receiver.	.20	\$30.00	KGR
22-Jan-25	To draft Motion	.80	\$260.00	THM
22-Jan-25	To draft Ancillary Order	.40	\$130.00	THM
22-Jan-25	To draft confidential appendices;	.30	\$49.50	NCL
27-Jan-25	Call with client	.20	\$110.00	TCH
27-Jan-25	E-mail with client	.20	\$110.00	TCH
28-Jan-25	Review amending agreement, e-mail to client	.20	\$110.00	TCH
28-Jan-25	To obtain PPSA report;	.10	\$21.50	ORA
28-Jan-25	To prepare amendment to APS;	.80	\$440.00	CJH
28-Jan-25	To emails to and from Receiver and agent re amendment to APS;	.40	\$220.00	CJH
31-Jan-25	To send email correspondence to client	.20	\$65.00	THM
3-Feb-25	Amend service list, review Notice of Motion, and AVO, e-mail to client	.50	\$275.00	TCH

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
3-Feb-25	To review and revise AVO and finalize for motion before the Court for approval;	.50	\$275.00	CJH
5-Feb-25	Call with client, amend Notice of Motion	.40	\$220.00	TCH
5-Feb-25	To revise draft Order	.30	\$97.50	THM
Total Fees:			\$ 9,536.00	
Plus GST:			0.00	
Plus HST:			<u>1,239.68</u>	
Total Fees (INCL TAX)				\$ <u>10,775.68</u>

FEE SUMMARY:

LAWYER	HOURS	RATE	AMOUNT
Christian J. Hamber	2.60	\$550.00	\$1,430.00
Timothy C. Hogan	10.40	\$550.00	\$5,720.00
Thomas Masterson	3.70	\$325.00	\$1,202.50
Nicole Clayton	.30	\$165.00	\$49.50
Sydney Inghelbrecht	1.80	\$165.00	\$297.00
Olivia Rajsp	.30	\$215.00	\$64.50
Areeb Daimee	1.50	\$175.00	\$262.50
Kinsey Greenfield	3.40	\$150.00	\$510.00

NON-TAXABLE DISBURSEMENTS

Government Filing Fees	<u>\$24.00</u>
Total Non-Taxable Disbursements:	24.00


TAXABLE DISBURSEMENTS

Entity Profile Report	20.00	
Bank Act/Bankruptcy	32.70	
MPAC - Assessment Search	14.00	
PPSA	32.70	
Teranet Search	45.10	
Teranet Writs	66.20	
Postage	1.23	
Tax Certificate Search	30.00	
Title Services	40.00	
Total Taxable Disbursements:	\$ 281.93	
Plus GST:	0.00	
Plus HST:	<u>36.65</u>	
Total Disbursements (INCL TAX)		\$ <u>342.58</u>

TOTAL DUE & OWING **\$ 11,118.26**

THIS IS OUR ACCOUNT HEREIN

HARRISON PENZA LLP

Per: 

Timothy C. Hogan

E. & O.E.

PLEASE REMIT PAYMENT TO HARRISON PENZA LLP

Invoices are due upon receipt

Payment can be made through bill payment on your bank's website or mobile app. Harrison Pensa LLP is registered as a payee with most Canadian banks.

Credit card payments can be made through our online payment portal: www.harrisonpensa.com/make-a-payment/

Cheques can be made payable to HARRISON PENZA LLP

GST / HST REGISTRATION NO: R867630543

Interest of 4.8% is charged based on the Courts of Justice Act at time of billing on all invoices over 30 days

THE TORONTO-DOMINION BANK

-and-

2743732 ONTARIO INC., et al.

Applicant

Respondents

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

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

Proceeding commenced at
Toronto, Ontario

AFFIDAVIT OF THOMAS MASTERSON

Harrison Pensa ^{LLP}
Barristers and Solicitors
130 Dufferin Avenue, Suite 1101
London, Ontario N6A 5R2

Timothy C. Hogan (LSO #36553S)

Tel: (519) 679-9660

Fax: (519) 667-3362

Solicitors for the Receiver,
msi Spergel inc.

Appendix 18

District of
Division No. 09 - Toronto
Estate No. 31-459567

**In the Matter of the Receivership of
2743732 Ontario Inc.**

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

RECEIPTS

1	Miscellaneous		
2	Receiver Borrowing	\$	80,000.00
3	Interest	\$	4,798.38
4	Rental Income	\$	141,650.00
5	HST Collected	\$	18,414.50
TOTAL RECEIPTS			<u>\$ 244,862.88</u>

DISBURSEMENTS

6	Federal and Provincial taxes		
	HST paid on disbursements Exclusive of Fees	\$	11,807.60
	HST paid on legal fees	\$	1,065.48
	HST paid on Ascend License Fee	\$	42.25
			<u>\$ 12,915.33</u>

7	Miscellaneous		
	Ascend License Fee	\$	325.00
	Filing Fees Paid to O/R	\$	75.30
	Re-Direction of Mail	\$	182.00
	Insurance	\$	55,741.48
	TSSA Inspection Fees	\$	368.50
	Environmental Consultant Fees	\$	44,400.00
	Appraisal Fees	\$	11,710.00
	Legal fees and disbursements	\$	8,317.05
	Utilities	\$	9,237.27
	Changing Locks	\$	700.00
	Security	\$	12,832.50
	Repairs and Maintenance	\$	7,140.00
	Waste Disposal	\$	210.00
	Travel	\$	511.36
			<u>\$ 151,750.46</u>

TOTAL DISBURSEMENTS **\$ 164,665.79**

Net Receipts over Disbursements **\$ 80,197.09**
E&OE

THE TORONTO-DOMINION BANK

and

2743732 ONTARIO INC., et al.

Applicant

Respondents

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

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

PROCEEDING COMMENCED AT
TORONTO, ONTARIO

SECOND REPORT OF THE RECEIVER

HARRISON PENZA LLP

Barristers and Solicitors
130 Dufferin Avenue, Suite 1101
London, ON N6A 5R2

Timothy Hogan (LSO # 36553S)

Thomas Masterson (LSO #76835U)

Tel: (519) 679 9660

Fax: (519) 667 3362

Email: thogan@harrisonpensa.com

Email: tmasterson@harrisonpensa.com

Solicitors for the Receiver,
msi Spergel inc.

THE TORONTO-DOMINION BANK

Applicant

and

2743732 ONTARIO INC., et al.

Respondents

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

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

PROCEEDING COMMENCED AT
TORONTO, ONTARIO

MOTION RECORD

HARRISON PENZA LLP

Barristers and Solicitors
130 Dufferin Avenue, Suite 1101
London, ON N6A 5R2

Timothy Hogan (LSO # 36553S)
Thomas Masterson (LSO #76835U)

Tel: (519) 679 9660

Fax: (519) 667 3362

Email: thogan@harrisonpensa.com

Email: tmasterson@harrisonpensa.com

Solicitors for the Receiver,
msi Spergel inc.