

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

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

9052526 CANADA INC.

Respondent

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

MOTION RECORD OF BDO CANADA LTD., COURT-APPOINTED RECEIVER
(Returnable October 18, 2022 at 12:00pm via Judicial Videoconference)

October 6, 2022

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(as at October 5)

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Barristers & Solicitors
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Respondent

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AND TO: **ABU YOUSUF**
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Scarborough, ON M1L 3Y1

AND TO: **TOYOTA INDUSTRIES COMMERCIAL FINANCE CANADA, INC.**
300 The East Mall Suite 401
Toronto, ON M9B 6B7

AND TO: **TRAVELERS LEASING LTD.**
800-9900 King George Blvd.
Surrey, BC V3T 0K7

AND TO: **ADD CAPITAL CORP.**
500 Cochrane Drive, Unit 2
Markham, ON L3R 8E2

AND TO: **CANADA REVENUE AGENCY**
c/o Department of Justice
Ontario Regional Office
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Attention: Rakhee Bhandari
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AND TO: **HER MAJESTY THE QUEEN IN RIGHT
OF ONTARIO AS REPRESENTED BY
THE MINISTRY OF FINANCE**
Revenue Collections Branch – Insolvency Unit
33 King Street W., P.O. Box 627
Oshawa, ON L1H 8H5
Email: insolvency.unit@ontario.ca

AND TO: **1890194 ONTARIO INC. O/A JAMUNA FOODS**
47 Royal Gala Cres.
Richmond Hill, ON L4S 1Y5

Attention: Iftikhar Hossain
Tel: (416) 705-2153
Fax: (905) 428-3586
Email: info@jamunafoods.com

AND TO: **11347314 CANADA INC. O/A VICTORIA SUPERMARKET**
1400 Victoria Park Avenue
Toronto, ON M4A 2L8

Attention: Kamia Kazi
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COURTS OF JUSTICE ACT, R.S.O. 1990, C.43, AS AMENDED

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TAB 1

Court File No. CV-22-00674747-00CL

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

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

9052526 CANADA INC.

Respondent

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

NOTICE OF MOTION

BDO CANADA LIMITED., in its capacity as Court-appointed receiver (the “**Receiver**”), without security, of all of the undertakings, properties and assets of 9052526 Canada Inc. (the “**Debtor**”) will make a motion to a Judge presiding over the Commercial List on October 18, 2022 at 12:00 pm, or as soon after that time as the motion can be heard, which motion shall be heard virtually by judicial videoconference to be set by the Court Office and may be attended accessing the videoconference link on the Court’s Caselines portal for this matter. A direct link will be circulated by email to those members of the Service List with email.

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

THE MOTION IS FOR:

1. a Order, substantially in the form attached hereto as Schedule “A”, *inter alia*:

- (a) compelling Sad Alam Sheikh, a/k/a Saad Sheikh. (“**Mr. Sheikh**”) to deliver to the Receiver certain information in respect of the business of the Debtor within two (2) business days of this Order;
 - (b) compelling 1890194 Ontario Inc. o/a Jamuna Foods (“**Jamuna**”) and all of its directors, officers, shareholders employees, representatives and any other person affiliated with Jamuna to grant access to the Receiver to its premises to remove the Equipment (as defined herein), and authorizing and directing the Receiver to enlist the assistance of the law enforcement authorities to assist the Receiver in gaining access to the Premises and repossession of the Equipment; and
 - (c) compelling 11347314 Canada Inc. o/a Victoria Supermarket (“**Victoria Supermarket**”) and all of its directors, officers, shareholders employees, representatives and any other person affiliated with Victoria Supermarket to report to the Receiver as to inventory acquired from the Debtor since June 24, 2022 and to pay any and all amounts due or coming due to the Debtor to the Receiver; and
2. such further and other relief as counsel may advise and this Court may permit.

THE GROUNDS FOR THE MOTION ARE:

Background

- 1. the Debtor operated primarily as a food wholesaler, importing a number of frozen and dry products, such as fish and rice, primarily from Asia;
- 2. Mr. Sheikh is the principal and directing mind of the Debtor;
- 3. TD is the senior lender to the Debtor, under both an operating credit facility and an equipment loan agreement, and is the only registered secured creditor of the Debtor;
- 4. TD first brought its application to appoint a receiver of the Debtor in September 2021, at which time the Court issued a receivership order but deferred effectiveness of the same to – with TD’s support – allow the Debtor time to refinance its obligations to TD;
- 5. The Debtor failed to do so and, on June 24, 2022, the receivership became effective;

6. TD is currently owed approximately \$585,000, plus interest, legal fees and the professional fees associates with these proceedings;

Frustration of Receiver's Activities

7. upon its appointment the Receiver identified three principal sources of potential recovery:
 - (a) equipment held by Jamuna – a non-arm's length party;
 - (b) the accounts receivable payable by Victoria Supermarket – a non-arm's length party; and
 - (c) a review of prior accounts receivable and the application of Debtor funds by Mr. Sheikh in favour of unknown persons for which Mr. Sheikh has failed to provide any information to the Receiver;
8. the Receiver's efforts in gather information in respect of these recovery sources and/or take steps have been frustrated to the point where the Receiver requires the assistance of the Court;

Equipment

9. the Debtor financed certain refrigeration and warehouse equipment through a loan with TD (the "**Equipment**"), over which TD holds registered security and possesses a landlord waiver in respect of such chattels at Unit 42, 760 Birchmount Road, Scarborough, Ontario ("**760 Birchmount**");
10. prior to the receivership, when engaged by TD, representatives of the receiver attended at 760 Birchmount on two occasions, during which Mr. Sheikh toured the facility, showed the Debtor's operations and equipment – the latter attendance was for the express purpose of appraising the Equipment;
11. the Debtor now states that Jamuna is the only occupier of 760 Birchmount and has produced a retroactive sublease between the Debtor and Jamuna; and, Jamuna has claimed ownership of the Equipment and denied access to the Receiver;
12. the Receiver has not been satisfied that Jamuna owns the Equipment and, in any event, the same remains subject to TD's security;

13. the Receiver needs access to 760 Birchmount and authority to remove the Equipment to realize on the same for the stakeholders;

Accounts Receivable form Victoria Supermarket

14. in mid-September 2022, Mr. Sheik provided five new invoices, which he says evidenced the sale of *all good saleable* inventory of the Debtor to Victoria Supermarket for approximately \$890,000, payable over the course of six-months;
15. this sale may be contrary to the receivership order (and all inventory remains subject to TD's security interest) but, at this stage, the Receiver needs to verify the status of the inventory levels with Victory Supermarket and to ensure that any payment for Victoria Supermarket is directed to the Receiver and not Mr. Sheikh or subordinate creditors;

Prior Accounts Receivable and Banking

16. regarding the accounts receivable as at the date of the receivership:
 - (a) Mr. Sheikh has refused to provide adequate information regarding the accounts – including copies of invoices and account payor contact information – that would allow the Receiver to assess same;
 - (b) Mr. Sheikh advised this would interfere with his business; and
 - (c) just recently Mr. Sheikh advised that all outstanding accounts at the date of receivership had been collected with no real explanation of the use of the proceeds;
17. a review of the Debtor's bank statements reveals hundreds of thousands of dollars passing through the account, post-receivership, all facilitated by Mr. Sheikh, with many withdrawals issued to "cash";
18. the Receiver has requested an accounting of these transactions from Mr. Sheikh many times and he has failed to provide same; although her recently promised to deliver the same on September 23, 2022, he never did;
19. the Receiver requires the details of the accounts receivable as at the date of the receivership and an accounting of the Debtor's transactions, so as to assess the potential recovery against the same and the legitimacy of the various transactions;

Relief Requested

20. in order to enable the Receiver to properly continue its mandate and assess these potential sources of recovery, the Receiver request the assistance of the Court in the form of an order as set out in paragraph 1 hereof, to compel Mr. Sheikh and the stated non-arm's length parties to provide access or information or payment to the Receiver, to allow the receiver to maximize recoveries for the creditors;
21. without such assistance, the Receiver's mandate will continue to be frustrated by such parties ignoring, refusing to respond or rejecting the Receiver's authority and the Court's orders;

OTHER GROUNDS

22. the other grounds set out in the First Report;
23. the Consolidated Practice Direction Concerning the Commercial List and the inherent equitable jurisdiction of the Court;
24. rules 1.04, 2.03, 3.02, 16.08 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194;
25. sections 243, 249 and 250 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3;
26. the *Bankruptcy and Insolvency General Rules*, C.R.C., c. 368;
27. such further and other grounds as counsel may advise and this Honourable Court may permit.

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

1. the First Report of the Receiver and the appendices thereto; and
2. such further and other documentary evidence as counsel may advise and this Court permits.

DATE: October 6, 2022

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*Lawyers for the Court-Appointed
Receiver, BDO Canada Ltd.*

TAB A

Court File No. CV-22-00674747-00CL

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

THE HONOURABLE	)	TUESDAY, THE 18th
)	
JUSTICE <*>	)	DAY OF OCTOBER 2022

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

9052526 CANADA INC.

Respondent

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

ORDER

THIS MOTION, made by BDO Canada Limited, in its capacity as Court-appointed receiver (the “**Receiver**”), without security, of all of the undertakings, properties and assets of 9052526 Canada Inc. (the “**Debtor**”), for an order, *inter alia*:

1. compelling Sad Alam Sheikh, a/k/a Saad Sheikh. (“**Mr. Sheikh**”) to deliver to the Receiver certain information in respect of the business of the Debtor within two (2) business days of this Order;
2. compelling 1890194 Ontario Inc. o/a Jamuna Foods (“**Jamuna**”) and all of its directors, officers, shareholders employees, representatives and any other person affiliated with Jamuna to grant access to the Receiver to its premises to remove the Debtor’s Chattels (as defined herein), and authorizing and directing the Receiver to enlist the assistance of the

law enforcement authorities to assist the Receiver in carrying out access to the Premises and repossession of the Debtor's Chattels; and

3. compelling 11347314 Canada Inc. o/a Victoria Supermarket ("**Victoria Supermarket**") and all of its directors, officers, shareholders employees, representatives and any other person affiliated with Victoria Supermarket to report to the Receiver as to inventory acquired from the Debtor after June 24, 2022 and to pay any and all amounts due or coming due to the Debtor to the Receiver,

was heard virtually by "Zoom" videoconference on this day in Toronto, Ontario.

ON READING the First Report and the appendices thereto, and on hearing the submissions of counsel for the Receiver and such other counsel as listed on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Amanda Adamo sworn <*>, 2022, filed:

1. **THIS COURT ORDERS** that the time for service of the notice of motion and motion materials in respect of this motion is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that Mr. Sheikh is hereby directed to deliver to the Receiver the following documentation within two (2) business days of notice of this Order, which notice may be delivered by email to Mr. Sheikh and/or to his counsel (at such emails are disclosed on the Service List):
 - a. copies of all customer invoices that comprised the accounts receivable of the Debtor outstanding as at June 24, 2022 (the "**Receivership Effective Date**"), and any accounts receivable rendered thereafter (collectively, the "**Accounts**"; and each, an "**Account**"); and
 - b. a comprehensive list detailing all information in respect of all Accounts, including (to the extent not included on the face of the Accounts) (i) the contact person and contact details of each Account payor; (ii) an itemized list of the goods and/or

services included in each such Account; (iii) quantum of each Account; and, (iv) any payment terms extended to an Account payor not reflected on an Account; and

- c. an accounting of all financial transactions of the Debtor (or made by Mr. Sheikh on behalf of the Debtor) recorded in the Debtor's bank statements or elsewhere, taking place on and after the Receivership Effective Date, including disclosing the name and contact information for any recipient of funds.

3. **THIS COURT ORDERS** that the Receiver may, by delivering a notice of examination on such person, require Mr. Sheikh or any person having notice of this Order to sit for an examination under oath in respect of any of the matters set out in paragraph 2 hereof or any matter pertaining to the assets, undertakings or business of the Debtor.

4. **THIS COURT ORDERS** that the Receiver is entitled to possession of those assets of the Debtor enumerated in schedule "A" hereto (collectively, the "**Debtor's Chattels**").

5. **THIS COURT ORDERS** that Jamuna and all of its directors, officers, shareholders employees, representatives and any other person affiliated with Jamuna be and are hereby directed, upon being provided with a copy of this Order, to grant to the Receiver (as well as its representatives, bailiffs, and such other person as the Receiver may designate) immediate and continuing access to the premises located at 760 Birchmount Road – Unit 42, Scarborough, Ontario (the "**Premises**"), for the limited purpose of removing the Debtor's Chattels. Notwithstanding the foregoing, this Court orders that (i) access to the Premises shall be given between the hours of 9:00am and 5:00pm (Toronto time) unless otherwise agreed to by Jamuna, provided that Jamuna shall have no ability to deny access during such times; and, (ii) in removing the Debtor's Chattels from the Premises, the Receiver and its representatives shall do so in a workmanlike manner, exercising prudent care, so as to interfere with the affairs of Jamuna as little as possible

6. **THIS COURT ORDERS** that the Receiver and its representatives and/or its bailiffs may use the means necessary to carry out the provisions of paragraph 5 of this Order and obtain possession of the Debtor's Chattels including, where necessary, entering into any locked premises, and the police, the sheriff or other law enforcement entities of the Ontario jurisdiction, including but not limited to the Toronto Police Service, shall assist the Receiver and its agents in obtaining

possession of the Debtor's Equipment, and this Order shall be sufficient authority for the Receiver to request the cooperation of the police or sheriff and no further order, writ or other document shall be required.

7. **THIS COURT ORDERS** that Victoria Supermarket and all of its directors, officers, shareholders employees, representatives and any other person affiliated with Victoria Supermarket be and are hereby directed, upon being provided with a copy of this Order by way of email to management@victoriasupermarket.ca, to:

- a. provide to the Receiver a current list of the inventory acquired from the Debtor by Victoria Supermarket after June 24, 2022, detailing inventory sold and held by Victoria Supermarket, updated weekly by email to the Receiver; and
- b. pay any and all amounts due or coming due to the Debtor to the Receiver, including but not limited to the amount of \$890,699.55 (plus any applicable tax, interest or penalties) payable in respect of the five (5) invoices issued by the Debtor to Victoria Supermarket attached to the First Report as Appendix "M".

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

SCHEDULE "A"
DEBTOR'S CHATTELS

I#	QTY	PIC	DESCRIPTION	MODEL	S/N
1	1	1-7	WALKER IN FREEZER, DIMENSIONS (L,W,H) 76' X 48' X 16', 1 MAN DOOR, 1 DRIVE IN DOOR, (3) 3-FAN EVAPORATORS, (2) ROOF MOUNTED CONDENSERS, 2019	N/A	N/A
2	1	8-16	LOT OF PALLET RACKING	N/A	N/A
3	1	17	RAYMOND , 2500 LBS., 24 VOLT, BATTERY POWERED REACH TRUCK, 205" MAXIMUM LIFT	FASI-DR-25TT	ET-D-01-10118
4	1	18	CROWN , 2500 LBS, 24V, BATTERY POWERED, HIGH MAST, WALKIE, 154" MAXIMUM LIFT	ST300-25	5A552902
5	2	19-20	TOYOTA , 4500 LBS, 24V, BATTERY POWERED, WALKIE	8HBW23	268229 13960
6	1	21	FERRO , 48 VOLT, BATTERY CHARGER, 575/3/60	VFR24L510	MPI-259-307
7	1	22	CD TECHNOLOGIES , 24 VOLT, BATTERY CHARGER, 575/3/60	FR12L550A	CPIC9013378
8	1	23	EXIDE , 24 VOLT, BATTERY CHARGER, 575/3/60	6P12-3-800	128266

THE TORONTO-DOMINION BANK

Applicant

-and-

9052526 CANADA INC.

Respondent

22

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.43, AS AMENDED

Court File No. CV-21-00667820-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]

Proceedings commenced at Toronto

ORDER

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*Independent counsel to the Receiver, BDO
Canada Limited*

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Applicant

-and-

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23

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.43, AS AMENDED

Court File No. CV-21-00667820-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]

Proceedings commenced at Toronto

NOTICE OF MOTION
(returnable October 18, 2022 @ 12:00noon
via Judicial Videoconference)

LOOPSTRA NIXON LLP
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*Independent counsel to the Receiver, BDO
Canada Limited*

TAB 2

Court File No. CV-21-00667820-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

9052526 CANADA INC.

Respondent

IN THE MATTER OF AN APPLICATION PURSUANT TO 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

FIRST REPORT TO COURT SUBMITTED BY
BDO CANADA LIMITED
IN ITS CAPACITY AS COURT APPOINTED RECEIVER OF
9052526 CANADA INC.

October 6, 2022

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- Appendix C - Receiver's Preliminary Report dated June 23, 2022
- Appendix D - Corporate Profile of Victoria Supermarket
- Appendix E - Head Lease for 42-760 Birchmount Rd. December 18, 2018
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- Appendix K - Landlord Waiver in Favour of TD
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- Appendix M - Invoices issued to Victoria Supermarket
- Appendix N - Letter to Victoria Supermarket September 15, 2022
- Appendix O - Bank Statements
- Appendix P - Security Opinion

1.0 INTRODUCTION AND PURPOSE OF REPORT

1.1 Introduction

1.1.1 On September 20, 2021, on the application of The Toronto-Dominion Bank (“TD”), the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the “Court”) issued an order (the “Appointment Order”), appointing BDO Canada Limited as the receiver (the “Receiver”), without security, of all the Property (as defined in the Appointment Order) of 9052526 Canada Inc. (the “Debtor”). Attached as Appendix “A” is copy of the Appointment Order.

1.1.2 However, the effectiveness of the Appointment Order was deferred, based on an agreement between TD and the Debtor, to allow Debtor time to refinance the indebtedness to TD. Such refinancing did not occur and TD brought a motion for an order declaring the Appointment Order effective.

1.1.3 On June 24, 2022, by way of an order of the Honourable Justice Dietrich (the “Activation Order”), the Appointment Order was made effective and the Receiver commenced its mandate under the Appointment Order. Attached as Appendix “B” is copy of the Activation Order.

1.1.4 In connection with the hearing before Justice Dietrich, the Receiver issued its preliminary report dated June 23, 2022 (the “Preliminary Report”) in these proceedings in support of the motion for the Activation Order. A copy of the Preliminary Report (without appendices) is attached hereto as Appendix “C” .

1.2 Corporate Overview

1.2.1 The Debtor is a federal corporation with its registered office located at 6800 Rexwood Road, Mississauga, Ontario. The Debtor currently operates from a grocery store known

as *Victoria Supermarket* located at 1400 Victoria Park Ave, Toronto, Ontario and operated by 11347314 Canada Inc. (“Victoria Supermarket”).

1.2.2 The Debtor operates primarily as a food wholesaler, importing a number of frozen products and dry products, such as fish and rice, primarily from Asia.

1.2.3 Sad Alam Sheikh, also known as Saad Sheikh, is the Director of the Debtor.

1.2.4 TD is the Debtor’s primary secured creditor and brought the application for the appointment of a receiver over the assets, properties and undertakings of the Debtor. This motion for the Activation Order was initially returnable on June 9, 2022 but was delayed as TD and the Debtor attempted to come to a resolution.

1.2.5 On June 9, 2022, the Honourable Madame Justice Dietrich issued an endorsement adjourning the receivership hearing to June 24, 2022, for the purpose of allowing the Debtor sufficient time to arrange replacement financing to repay TD in full. The Debtor again did not refinance its obligations with TD and on June 24, 2022 the Activation Order was issued and the Receivership commenced.

1.3 Purpose of this Report

1.3.1 The purpose of this first report of the Receiver (the “First Report”) is to support a motion for an order:

- a) Compelling the Debtor and its director to promptly provide the information requested by the Receiver pursuant to the Appointment Order;
- b) Compelling the subtenant, Jamuna (as defined below), to grant the Receiver access and possession of the equipment of the Debtor located at Unit 42, 760 Birchmount Road, Scarborough, Ontario (“760 Birchmount”);

- c) Directing Victoria Supermarket to report to the Receiver as to inventory acquired from the Debtor after June 24, 2022 and to pay any and all amounts due or coming due to the Debtor to the Receiver; and
- d) Such further and other relief as this Honourable Court deems just.

1.4 Scope and Terms of Reference

- 1.4.1 This First Report has been prepared for the use of this Court, to assist the Court in making a determination of whether to approve the relief currently being sought in these proceedings. Accordingly, the reader is cautioned that the First Report may not be appropriate for any other purpose. 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 the First Report different than the provisions of this paragraph.

2.0 RECEIVER'S ACTIVITIES

- 2.0.1 On June 24, 2022, immediately upon being appointed the Receiver attended 760 Birchmount to confirm the status of the Debtor's business operations.
- 2.0.2 Upon attending 760 Birchmount on June 24, 2022, the Receiver was unable to ascertain whether there were any assets or operations of the Debtor on site. Rather, the Receiver was met by Iftikhar Hossain, brother of Mr. Sheikh and director of 1890194 Ontario Inc. o/a Jamuna Foods ("Jamuna"). Mr. Hossain informed the Receiver that Jamuna was the sole occupant of 760 Birchmount and that the Debtor had no assets there. Mr. Hossain also refused to allow the Receiver to inspect the contents of the premises at that time.

- 2.0.3 The Receiver immediately contacted Mr. Sheikh to ascertain where the business assets of the Debtor were being kept. Mr. Sheikh advised that inventory was stored at Victoria Supermarket and agreed to meet the Receiver there later that afternoon, which meeting did take place.
- 2.0.4 The Receiver also attended at Everest Freezers in Mississauga on June 24, 2022, to observe the Debtor's inventory. Everest Freezers is a third-party cold-storage facility.
- 2.0.5 The Receiver re-attended at 760 Birchmount on July 11, 2022 with Mr. Sheikh to observe the Debtor's equipment, namely: an industrial walk-in freezer, compressor units and warehouse equipment ancillary to the operations - which had largely been financed by TD.
- 2.0.6 As reported in the Preliminary Report, the Receiver had previously attended 760 Birchmount on February 24, 2021 and July 21, 2021. On each of these prior visits the Receiver observed an operating entity with substantial quantities of inventory being stored at the location, along with a walk-in freezer and warehouse equipment.
- 2.0.7 After consulting with TD, the Receiver did not immediately take possession of the assets of the Debtor and effectively allowed the Debtor to continue to operate while it was attempting to best determine how to monetize the Debtor's perishable food assets. All the while, Mr. Sheikh insisted that he intended to pay off TD in full by the summer of 2023, suggesting that he intended to operate under a self-imposed form of forbearance which was not agreed to by the Receiver nor TD.
- 2.0.8 After consulting further with TD, it was decided in late August that the Receiver begin taking steps to seize the Debtor's assets and attempt to realize thereon.

2.1 Victoria Supermarket

2.1.1 As mentioned above, the Receiver observed a substantial amount of the Debtor's inventory being stored at Victoria Supermarket. Victoria Supermarket is a customer of the Debtor and further dealings with Victoria Supermarket are detailed below.

2.1.2 The Receiver obtained a corporate search for Victoria Supermarket which indicates that the legal name of the entity is 11347314 Canada Inc. and the directors are:

- i) Kamia Kazi, 3098 Merritt Avenue, Mississauga, Ontario; and
- ii) Siddiquir Rahman, 207-40 Sunrise Ave., Toronto ON.

A copy of the corporate profile of Victoria Supermarket is attached hereto as Appendix "D".

2.1.3 Mr. Sheikh has advised the Receiver that Victoria Supermarket is 50% owned by his wife, who the Receiver understands to be Kamia Kazi (as her Mississauga address listed above is the same as Mr. Sheikh's address).

2.1.4 Initially, Mr. Sheikh had advised the Receiver that the inventory was being stored at Victoria Supermarket. However, as discussed below, in September 2022 Mr. Sheikh advised the Receiver that Victoria Supermarket had acquired all of the the Debtor's good saleable inventory.

2.2 760 Birchmount

2.2.1 The Debtor provided a copy of a lease (the "Head Lease") between Ontari Holdings Ltd., the landlord of 760 Birchmount, and the Debtor, as tenant, dated December 18,

2018. The Head Lease is in respect of Unit C042 at 760 Birchmount Road, Scarborough. A copy of the Head Lease is attached hereto as Appendix "E".

2.2.2 When the Receiver asked Mr. Sheikh why Jamuna was in occupation of 760 Birchmount, Mr. Sheikh provided a copy of a sublease agreement (the "Sub-Lease") between the Debtor as sublandlord and Jamuna as subtenant dated February 1, 2021. A copy of the Sub-Lease is attached hereto as Appendix "F".

2.2.3 The Sub-Lease appears to be a *retroactive* agreement that states that:

- a) Jamuna has always been the tenant of 760 Birchmount, since 2018;
- b) the Debtor made a large initial cash outlay of \$654,313.63 for the initial capital costs associated with 760 Birchmount for Jamuna's benefit and Jamuna has repaid the Debtor for these costs; and
- c) upon the Debtor discharging liens against the equipment located in the premises, title to that equipment automatically passes to Jamuna and the Debtor will use best efforts to assign the Head Lease to Jamuna.

2.2.4 As reported in the Preliminary Report at paragraph 1.2.3, the Receiver had previously attended 760 Birchmount on February 24, 2021 and July 21, 2021 wherein the Receiver observed the operations of the Debtor and verified the existence of inventory, the walk-in freezer and related equipment. Further, on July 21, 2021, the Receiver was also granted access by Mr. Sheikh to have an appraiser (Platinum Asset Services Inc.) attend 760 Birchmount for the express purpose of appraising the Debtor's equipment. A copy of the equipment list (the "Equipment") prepared by the appraiser and included in the appraisal, without values, is attached hereto as Appendix "G". Mr. Sheikh was present at both attendances.

- 2.2.5 During the attendances and appraisal in February and July 2021, at no time was the Receiver advised that Jamuna was a sub-tenant of the premises, nor that there was any business relationship between the Debtor and Jamuna, nor that Jamuna existed at all. It strikes the Receiver as untenable that the Debtor now purports that Jamuna has been occupying 760 Birchmount since December 2018 pursuant to the Sub-Lease Agreement dated February 1, 2021 and, further, that the Sub-Lease Agreement purports to set out a transfer of title to the leasehold improvements and the Equipment that are or were owned by the Debtor to Jamuna, all of which is contrary to TD's registered security interests. Notably, TD has not discharged its interest. Accordingly, even if the Sub-Lease Agreement is valid, the provision transferring title to the Equipment is conditional on the discharge of liens thereupon and, as such, it would not be effective in any event.
- 2.2.6 The Receiver has corresponded with Jamuna and Mr. Hossein by email at info@jamunafoods.com. The Receiver wrote to Jamuna on September 26, 2022 to request access to remove the Equipment. A copy of the Receiver's letter is attached hereto as Appendix "H". Jamuna responded on September 27, 2022, refusing the Receiver's request and declaring that all contents of 760 Birchmount are owned by Jamuna. A copy of Jamuna's response is attached hereto as Appendix "I".
- 2.2.7 Attached as Appendix "J" is further email correspondence between the Receiver and Jamuna regarding the authority of the Receiver's prior visits to 760 Birchmount which serves to confirm that the alleged sole occupancy of 760 Birchmount by Jamuna is questionable, given the non-arms length relationship between the Debtor and Jamuna.
- 2.2.8 The Equipment is subject to TD's security interest and the Receiver has been provided with a copy of a waiver for the landlord under the Head Lease, granting access to TD to

enforce that security interest. A copy of such waiver is attached hereto as Appendix "K".

2.2.9 There is no apparent basis on which Jamuna's interest in the Equipment, if any, would supersede TD's registered security interest. Upon inquiring with TD in respect of Jamuna's position, TD rejects that Jamuna has any interest in the Equipment.

2.2.10 Jamuna's position is impairing TD's security and interfering with the Receiver's ability to carry out its mandate. The Receiver requires the Court's assistance to compel Jamuna to grant access to 760 Birchmount to repossess and realize on the Equipment.

2.3 Accounts Receivable

2.3.1 Subsequent to its appointment, on July 25, 2022, the Debtor provided the Receiver with an aged accounts receivable report indicating a total of \$768,796.66 as owing to the Debtor from twenty (20) customers (the "Aged Accounts Report"). A copy of the Aged Accounts Report is attached hereto as Appendix "L". There are no customer details beyond name in this report.

2.3.2 The Receiver has, on multiple occasions, requested that the Debtor provide contact details and invoices in respect of these outstanding accounts receivable so that the Receiver may attempt to collect the same. The Debtor would only provide summary reports. The Debtor refused to provide the requested information for fear that it would halt the Debtor's business.

2.3.3 After various follow-ups by the Receiver, including advising of the potential need for intervention by the Court, the Debtor finally provided the outstanding invoices in respect of accounts receivable on September 14, 2022. However, the invoice submission by the Debtor only consisted of five (5) invoices issued to Victoria Supermarket between

July 18 and September 2, 2020, totaling \$890,699.55. These invoices are dated post-receivership and contain payment terms that range from over 90 days to over 180 days. Copies of these invoices are attached hereto as Appendix "M".

- 2.3.4 The transaction with Victoria Supermarket was not authorized by the Receiver and contravenes the terms of the Appointment Order. The Receiver has written to Victoria Supermarket, by email to management@victoriasupermarket.ca, requesting that all payments on accounts be made to the Receiver. A copy of the correspondence is attached hereto as Appendix "N". The Receiver also requires an update on the status of the inventory that is the subject of these accounts.
- 2.3.5 More concerning, however, is that the invoices to Victoria Supermarket are not the accounts owing from the twenty customers in the Aged Accounts Report. The Receiver and counsel convened a call with Mr. Sheikh and counsel to the Debtor on September 15, 2022 to discuss this fact, among other things. When asked about the other accounts, the Debtor advised that all had been collected. When asked about the disposition of the proceeds from these accounts, Mr. Sheikh stated that he used the funds to repay suppliers.
- 2.3.6 The Receiver is concerned that the Debtor continues to trade, converting or dissipating assets of the Debtor to the detriment of the Receivership estate and its primary stakeholder, TD.
- 2.3.7 The Debtor's refusal to provide details of the account receivable, including copies of invoices and contact information, is frustrating the Receiver's mandate. The Receiver requires the Court's assistance to compel Mr. Sheikh and the Debtor to provide the necessary information related to all of the above-noted accounts receivable to enable

the Receiver to assess the same, to determine if they were properly collected and to determine if further recoveries are available.

2.4 Bank Accounts

- 2.4.1 The Receiver obtained account statements for the Debtor's bank account for the period following the issuance of the Activation Order. Copies of such statements are attached hereto as Appendix "O". A review of the statements discloses hundreds of thousands of dollars moving through the account, including many withdrawals issued to "cash". On the call with the Debtor on September 15, 2022, the Receiver advised that Mr. Sheikh was not to expend any of the Debtor's funds and requested a detailed accounting of the transactions disclosed in the bank statements. Mr. Sheikh advised that same would be delivered the following week, by September 23, 2022. The accounting was not delivered.
- 2.4.2 The Debtor's refusal to provide a detailed accounting of bank transactions is frustrating the Receiver's mandate. The Receiver requires the Court's assistance to compel Mr. Sheikh and the Debtor to provide such information so as to enable the Receiver to assess these transactions.
- 2.4.3 On August 19, 2022, the Receiver wrote to the bank branch where the Debtor keeps its bank account(s) to request that the account(s) be frozen, and funds remitted to the Receiver. The account was ultimately frozen on September 1, 2022, and as at the time of writing this First Report the Receiver has not received the funds remaining in the account(s) when frozen.

3.0 Security, Creditors and Sources of Recovery

3.1 Introduction

3.1.1 TD is the only creditor of the Debtor holding registered security interests under the *Personal Property Security Act (Ontario)*, which registrations are summarized as follows:

- a) TD (in respect of particular equipment);
- b) TD (in respect of all personal property); and
- c) TD (in respect of accounts).

3.2 TD Security

3.2.1 TD has extended two credit facilities to the Debtor, in addition to a CEBA loan, all of which remain unpaid. The unpaid balances as at August 29, 2022 were:

- a) Operating line of credit: \$372,220.64 including interest
- b) Equipment financing term loan: principal balance \$125,675.53 plus interest; and
- c) CEBA loan: \$40,000.

In addition to these outstanding loan balances, the Debtor is obligated to pay the costs and professional fees incurred in these proceedings.

3.2.2 BDO has received a security opinion with respect to the security granted by the Debtor in favour of TD from Loopstra Nixon LLP, its independent legal counsel. Loopstra Nixon has opined that, subject to the usual qualifications, TD's security is valid and enforceable as against the Debtor's personal property situated in Ontario. A copy of such security opinion is attached hereto as Appendix "P".

3.3 Other Creditors

3.3.1 The Receiver was provided with the Debtor's accounts payable summary dated July 15, 2022 indicating approximately \$50,000 of unpaid trade payables.

3.3.2 The Receiver understands that Canada Revenue Agency ("CRA") is not owed any amounts for H.S.T., which account is currently in a refund position, nor are there any unremitted employee source deductions as the Debtor uses subcontractors rather than paid employees. CRA is presently reviewing the accounts.

3.4 Potential Realizations

3.4.1 At present, it appears to the Receiver that the best (and possibly only) sources of recovery are:

- a) the Equipment held by Jamuna - a non-arm's length party;
- b) the accounts receivable payable by Victoria Supermarket, another non-arm's length party; and
- c) a review of payments of Debtor funds, facilitated by Mr. Sheikh, to unknown persons in respect of whom Mr. Sheikh has failed to provide any information.

3.4.2 The Receiver may pursue these directly or seek to assign certain claims and/or rights to TD under TD's security. However, to take any such steps, the Receiver requires the assistance of the Court through another hearing. Until the equipment is collected, the accounts paid and various information requests are fulfilled, the Receiver's mandate will continue to be frustrated and the creditors, chief among which is TD, will be prejudiced.

4.0 CONCLUSION & RECOMMENDATIONS

4.0.1 For the reasons set out above, the Receiver respectfully requests that the Court issue an order:

- a) Compelling the Debtor and its directors and officers to promptly provide the information requested by the Receiver pursuant to the Appointment Order;
- b) Compelling Jamuna to immediately grant the Receiver access to 760 Birchmount so that the Receiver can repossess the Equipment of the Debtor located therein;
- c) Directing Victoria Supermarket to report to the Receiver as to inventory acquired from the Debtor after June 24, 2022 and to pay any and all amounts due or coming due to the Debtor to the Receiver; and
- d) Such further and other relief as this Honourable Court deems appropriate.

All of which is respectfully submitted this 6th day of October 2022.

BDO CANADA LIMITED,
in its capacity as COURT-APPOINTED RECEIVER OF
9052526 CANADA INC.,
and without personal or corporate liability



Per: Peter Crawley, MBA, CPA, CA, CIRP, LIT
Vice President

Appendix "A"

Court File No. CV-21-00667820-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.	)	MONDAY, THE 20TH DAY
)	
JUSTICE CAVANAGH	)	OF SEPTEMBER, 2021

THE TORONTO-DOMINION BANK

Applicant

- and -

9052526 CANADA INC.

Respondent

**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 BDO Canada Limited as receiver and manager (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of 9052526 Canada Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day by judicial videoconference via Zoom, at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Sanjay Kansal sworn August 20, 2021 and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant, and counsel for the Respondent, no one else appearing, although duly served as appears from the affidavit of service Tayler Reiners sworn August 30, 2021 and the affidavit of service of Corey Taylor dated September 13, 2021, and on reading the consent of BDO Canada Limited to act as the Receiver, and on being advised that this Order is being obtained on an unopposed basis.

SERVICE

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

APPOINTMENT

2. THIS COURT ORDERS that, subject to the terms of the Ancillary Order of this Court made in the within Application and dated September 20, 2021, pursuant to section 243(1) of the BIA and section 101 of the CJA, BDO Canada Limited is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property").

RECEIVER'S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the 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* 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 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 \$100,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged

by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

23. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "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/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol.

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.

GENERAL

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

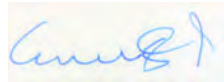
28. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

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

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

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

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



Digitally signed by
Mr. Justice Cavanagh

Justice, Ontario Superior Court of Justice

Commercial List

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that BDO Canada Limited, the receiver (the "Receiver") of the assets, undertakings and properties of 9052526 Canada Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ___ day of _____, 20__ (the "Order") made in an action having Court file number __-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

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

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

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

DATED the ____ day of _____, 20__.

BDO Canada Limited, solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

THE TORONTO-DOMINION BANK

v.

9052526 CANADA INC.

Applicant

Respondent

Court File No. CV-21-00667820-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

APPOINTMENT ORDER

HARRISON PENZA LLP
Barristers & Solicitors
450 Talbot Street
London, Ontario N6A 5J6

Timothy C. Hogan (LSO #36553S)
Robert Danter (LSO #69806O)

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

Solicitors for the Applicant,
The Toronto-Dominion Bank

Appendix "B"

Court File No. CV-21-00667820-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MADAME	)	FRIDAY, THE 24TH DAY
)	
JUSTICE DIETRICH	)	OF JUNE, 2022

B E T W E E N

THE TORONTO-DOMINION BANK

Applicant

-and-

9052526 CANADA INC.

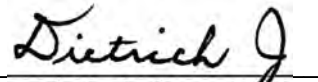
Respondent

ORDER

THIS MOTION, made by the Applicant, was heard this day by Judicial teleconference via Zoom at 330 University Avenue, Toronto, Ontario, Ontario.

ON READING the Motion Record of the Applicant dated May 31, 2022, the Appointment Order of the Honourable Justice Cavanagh dated September 20, 2021 (the “**Appointment Order**”) appointing BDO Canada Limited as Receiver over all Property (as defined in the Appointment Order) of the Respondent, the Ancillary Order of the Honourable Justice Cavanagh dated September 20, 2021, the Affidavit of Sanjay Kansal, sworn August 21, 2021, and the Exhibits thereto, the Affidavit of Sanjay Kansal, sworn September 17, 2021, and the Exhibits thereto, the Affidavit of Sanjay Kansal, sworn May 30, 2022, and the Exhibits thereto, the Factum of the Applicant dated June 7, 2022, the Preliminary Report dated June 23, 2022 filed by BDO Canada Limited in its capacity as proposed Receiver, and on hearing the submissions of counsel for the Applicant and all other parties in attendance, all properly served as it appears from the Affidavits of Service of Lindsay Ferguson dated May 31, 2022 and June 7, 2022, filed,

1. **THIS COURT ORDERS** that the Appointment Order in the herein Application be and is effective as against the Respondent, 9052526 Canada Inc., as at June 24, 2022.



Justice, Ontario Superior Court of Justice

Commercial List

THE TORONTO-DOMINION BANK

-and-

9052526 CANADA INC.

Applicant

Respondent

Court File No. CV-21-00667820-00CL

	<p>ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST</p> <p>Proceeding commenced at Toronto, Ontario</p> <p>ORDER</p> <p>Harrison Pensa ^{LLP} Barristers and Solicitors 130 Dufferin Avenue, Suite 1101 London, Ontario N6A 5R2</p> <p>Timothy C. Hogan (LSO #36553S) Robert Danter (LSO #69806O)</p> <p>Tel: (519) 679-9660 Fax: (519) 667-3362 Email: thogan@harrisonpensa.com rdanter@harrisonpensa.com</p> <p>Solicitors for the Applicant, The Toronto-Dominion Bank</p>
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Appendix "C"

Court File No. CV-21-00667820-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

9052526 CANADA INC.

Respondent

IN THE MATTER OF AN APPLICATION PURSUANT TO 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

PRELIMINARY REPORT TO COURT SUBMITTED BY
BDO CANADA LIMITED
IN ITS CAPACITY AS PROPOSED RECEIVER OF
9052526 CANADA INC.

June 23, 2022

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- Appendix B - Site Visit Pictures of Front Mezzanine
- Appendix C - Site Visit Pictures of Loading Docks

1.0 INTRODUCTION AND PURPOSE OF REPORT

1.0 Corporate Overview

- 1.0.1 9052526 Canada Inc. (the “Debtor”) is a federal corporation with its registered office located at 6800 Rexwood Road, Mississauga, Ontario. The Debtor concurrently operates out of another location in Units 30, 40, and 42 at 760 Birchmount Road, Scarborough, Ontario (“760 Birchmount”). The Debtor operates primarily as a food wholesaler.
- 1.0.2 The Toronto-Dominion Bank (“TD”) is the Debtor’s primary secured creditor and brought an application for the appointment of a receiver over the assets, properties and undertakings of the Debtor. This application was initially heard on June 9, 2022.
- 1.0.3 On June 9, 2022, the Honourable Madame Justice Dietrich issued an endorsement (the “June 9th Endorsement”) adjourning the receivership hearing to June 24, 2022, for the purpose of allowing the Debtor sufficient time to arrange replacement financing to repay TD in full and to provide TD with confirmation that the Debtor’s accounts with Canada Revenue Agency (“CRA”) for HST and employee deductions are current. A copy of the June 9th Endorsement is attached hereto as Appendix “A” .

1.1 Purpose of this Report

- 1.1.1 BDO Canada Limited has consented to act as the receiver in these proceedings, should one be appointed, and has prepared this preliminary report to the Court (the “Pre-Receivership Report”) at the request of TD and in its capacity as the proposed receiver (the “Proposed Receiver”).
- 1.1.2 The purpose of this report is to, *inter alia*, provide the Court with details of the Proposed Receiver’s site visit to 760 Birchmount conducted on June 21, 2022 at approximately 2:30 P.M.

1.1.3 The Proposed Receiver is advised by counsel to TD that, as of the time of writing this report, communications with the Debtor have ceased and there has been no indication given that alternate financing has been arranged.

1.1.4 The Proposed Receiver is also advised by TD that the Debtor has not provided confirmation that the Debtor is current in its filings with CRA.

1.2 Pre-Receivership Activities

1.2.1 On June 21, 2022, the Proposed Receiver attended 760 Birchmount to confirm the status of the Debtor's business operations.

1.2.2 Upon attending 760 Birchmount it appeared the business had ceased business operations with one of the units undergoing renovations and was being advertised as available for lease. A picture of the construction in process is attached hereto as Appendix "B". The other two units at 760 Birchmount have loading docks from which it appeared that inventory was being loaded into personal vehicles. Pictures of this activity are attached hereto as Appendix "C".

1.2.3 The Proposed Receiver had previously attended 760 Birchmount on February 24, 2021 and July 21, 2021. On each of these prior visits the Proposed Receiver observed an operating entity with substantial quantities of inventory being stored in the offices, walk-in freezer and warehouse.

1.3 Scope and Terms of Reference

1.3.1 This Pre-Receivership Report has been prepared for the use of this Court, to assist the Court in making a determination of whether to approve the relief currently being sought in these proceedings. Accordingly, the reader is cautioned that the Pre-Receivership Report may not be appropriate for any other purpose. The Proposed Receiver will not

assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of the Pre-Receivership Report different than the provisions of this paragraph.

All of which is respectfully submitted this 23rd day of June, 2022.

BDO CANADA LIMITED,
in its capacity as PROPOSED COURT-APPOINTED RECEIVER OF
9052526 CANADA INC.,
and without personal or corporate liability

A handwritten signature in black ink, appearing to read 'Chris Mazur', is written over a horizontal line.

Per: Chris Mazur, CIRP, LIT
Senior Vice President

Appendix "D"



Corporate Profile / Profil corporatif

Date and time of Corporate Profile (YYYY-MM-DD)	2022-09-21 10:34 AM	(AAAA-MM-JJ) Date et heure du Profil corporatif
--	---------------------	--

CORPORATE INFORMATION	RENSEIGNEMENTS CORPORATIFS
Corporate name	Dénomination
	11347314 Canada Inc.
Corporation number	Numéro de société ou d'organisation
	1134731-4
Business number	Numéro d'entreprise
	701547283RC0001
Governing legislation	Régime législatif
	<i>Canada Business Corporations Act (CBCA) - 2019-04-09</i> <i>Loi canadienne sur les sociétés par actions (LCSA) - 2019-04-09</i>
Status	Statut
	Active Active

REGISTERED OFFICE ADDRESS	ADRESSE DU SIÈGE
	1400 Victoria Park Avenue Toronto ON M4A 2L8 Canada

ANNUAL FILINGS	DÉPÔTS ANNUELS
Anniversary date (MM-DD)	(MM-JJ) Date anniversaire
	04-09
Filing period (MM-DD)	(MM-JJ) Période de dépôt
	04-09 to/au 06-08
Status of annual filings	Statut des dépôts annuels
	Overdue 2022 En retard Filed 2021 Déposé Filed 2020 Déposé
Date of last annual meeting (YYYY-MM-DD)	(AAAA-MM-JJ) Date de la dernière assemblée annuelle
	2021-06-25
Type	Type
	Non-distributing corporation with 50 or fewer shareholders Société n'ayant pas fait appel au public et comptant 50 actionnaires ou moins

DIRECTORS**ADMINISTRATEURS**

Minimum number	3	Nombre minimal
Maximum number	10	Nombre maximal
Current number	2	Nombre actuel
Kamia Kazi SIDDIQUR RAHMAN	3098 Merritt Avenue, Mississauga ON L4T 1P3, Canada 207-40 SUNRISE AVE, TORONTO ON M4A 2R4, Canada	

CORPORATE HISTORY**HISTORIQUE CORPORATIF****Corporate name history (YYYY-MM-DD)****(AAAA-MM-JJ) Historique de la dénomination**

2019-04-09 to present / à maintenant

11347314 Canada Inc.

Certificates Issued (YYYY-MM-DD)**(AAAA-MM-JJ) Certificats émis**

Certificate of Incorporation

2019-04-09 Certificat de constitution en société

Amendments details are only available for amendments effected after 2010-03-20. Some certificates issued prior to 2000 may not be listed.

Seuls les renseignements concernant les modifications effectuées après 2010-03-20 sont disponibles. Certains certificats émis avant 2000 pourraient ne pas être listés.

Documents filed (YYYY-MM-DD)**(AAAA-MM-JJ) Documents déposés**

The Corporate Profile sets out the most recent information filed with and accepted by Corporations Canada as of the date and time set out on the Profile.

Le Profil corporatif fait état des renseignements fournis et acceptés par Corporations Canada à la date et à l'heure indiquées dans le profil.

Appendix "E"

SHOPPING CENTRE: 760 BIRCHMOUNT PLAZA

LANDLORD: ONTARI HOLDINGS LTD.

TENANT: 9052526 CANADA INC.
o/a "WESTEAST"

INDEMNIFIER: N/A

A handwritten signature in black ink, appearing to be 'J. H. B.', is located to the right of the 'TENANT' information.

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BASIC TERMS

SHOPPING CENTRE: 760 BIRCHMOUNT PLAZA

LANDLORD: ONTARI HOLDINGS LTD.

TENANT: 9052526 CANADA INC.
(/a "WESTEAST" as more particularly set out in Section 7.01)

TENANT'S ADDRESS: 3098 MERRITT AVE, MISSISSAUGA, ON M9W 5S3

INDEMNIFIER: N/A

INDEMNIFIER'S ADDRESS: N/A

STORE NO.: C042

MUNICIPAL ADDRESS: 760 Birchmount Rd., Scarborough, ON M1K 5H8

AREA: Approximately 8,363 square feet as more particularly set out in Section 2.01

TERM OF LEASE: Approximately ten (10) years as more particularly set out in Section 2.03

EXTENSION OPTIONS: N/A

POSSESSION DATE Estimated to be February 1, 2019 as more particularly set out in Section 1.01(y)

COMMENCEMENT DATE Estimated to be April 15, 2019 as more particularly set out in Section 2.03

FIXTURING PERIOD Estimated to be ninety (90) days as more particularly set out in Section 2.03

ADVANCE RENT AND SECURITY DEPOSIT: \$9,059.92 plus applicable taxes Advance Rent (as more particularly set out in Section 3.07)
\$9,756.83 plus applicable taxes Security Deposit (as more particularly set out in Section 3.07)

MINIMUM RENT/ SQ. FT. RATE.: Lease Years 1-5: \$7.90 per square foot per annum
Lease Years 6-10: \$8.90 per square foot per annum

* plus the part of the month from the Commencement Date to and including the last day of the month in which the Commencement Date occurs if the Commencement Date does not occur on the first day of a calendar month (as more particularly set out in Section 2.03)



BASIC TERMS

SHOPPING CENTRE: 750 BIRCHMOUNT PLAZA
LANDLORD: ONTARI HOLDINGS LTD.
TENANT: 9052526 CANADA INC.
 (v/a "WESTEAST" as more particularly set out in Section 7.01)
TENANT'S ADDRESS: 3098 MERRITT AVE, MISSISSAUGA, ON M9W 5S3
INDEMNIFIER: N/A
INDEMNIFIER'S ADDRESS: N/A
STORE NO.: TBD
MUNICIPAL ADDRESS: 760 Birchmount Rd., Scarborough, ON M1K 5H8
AREA: Approximately 8,363 square feet as more particularly set out in Section 2.01
TERM OF LEASE: Approximately ten (10) years as more particularly set out in Section 2.03
EXTENSION OPTIONS: N/A
POSSESSION DATE Estimated to be February 1, 2019 as more particularly set out in Section 1.01(y)
COMMENCEMENT DATE Estimated to be April 15, 2019 as more particularly set out in Section 2.03
FIXTURING PERIOD Estimated to be ninety (90) days as more particularly set out in Section 2.03
ADVANCE RENT AND SECURITY DEPOSIT: \$9,059.92 plus applicable taxes Advance Rent (as more particularly set out in Section 3.07)
 \$9,756.83 plus applicable taxes Security Deposit (as more particularly set out in Section 3.07)
MINIMUM RENT/ SQ. FT. RATE: Lease Years 1-5: \$7.90 per square foot per annum
 Lease Years 6-10: \$8.90 per square foot per annum

* plus the part of the month from the Commencement Date to and including the last day of the month in which the Commencement Date occurs if the Commencement Date does not occur on the first day of a calendar month (as more particularly set out in Section 2.03)

THIS INDENTURE dated this 18th day of December, 2018 and made

BETWEEN:

ONTARI HOLDINGS LTD.
herein called the "Landlord"
OF THE FIRST PART;

- and -

9052526 CANADA INC.
herein called the "Tenant"
OF THE SECOND PART.

WITNESSETH THAT:

ARTICLE I
DEFINITIONS

1.01 Definitions

In this Lease:

- (a) "Accounting Period" means a calendar year (January 1st to December 31st) or such other accounting period as the Landlord upon written notice to the Tenant may adopt from time to time for the Shopping Centre.
- (b) "Additional Rent" means all and any monies required to be paid by the Tenant to the Landlord under or pursuant to the terms of this Lease, save only for Minimum Rent.
- (c) "Applicable Laws" means all laws, statutes, regulations, by-laws, rules, declarations, ordinances, guidelines, directives, orders, requirements and directions of all Authorities, including, without limitation, Environment Laws.
- (d) "Architect" shall mean the architect from time to time named by the Landlord or at the option of the Landlord, the Landlord's general contractor, surveyor, engineer or other measurement expert designated by the Landlord. Any certificate provided by the Architect and called for by the terms of this Lease shall be final and binding on the parties hereto.
- (e) "Authority" means any federal, provincial or municipal government, parliament, legislature, or any regulatory authority, agency, ministry, department, commission or board or other representative thereof, or entity established thereby, or any political subdivision thereof, or any court or without limiting the foregoing any other law, regulation or rule-making entity, having jurisdiction over the relevant circumstances, or any person acting under the authority of any of the foregoing.
- (f) "Commencement Date" means a date determined in accordance with the provisions of Section 2.03.
- (g) "Common Areas" means those areas, facilities, utilities, improvements, equipment and installations in the Shopping Centre which from time to time are not designated or intended by the Landlord to be leased to tenants of the Shopping Centre, and those areas, facilities, utilities, improvements, equipment and installations which serve or are for the benefit of the Shopping Centre whether or not located in, adjacent to or near the Shopping Centre and which are designated from time to time by the Landlord as part of the Common Areas. Without limiting the generality of the foregoing, Common Areas includes all parking areas and parking garages, all entrances and exits thereto and all structural elements thereof, employee parking areas, access roads, truck courts, driveways, truck ways, delivery passages, the roof, exterior weather walls, exterior and interior structural elements and bearing walls in the building and improvements comprising the Shopping Centre, package pick-up stations, loading and related

areas, pedestrian sidewalks, landscaped and planted areas, bus kiosks, if any, roadways and stops, signs, equipment and fixtures, stairways, ramps, electrical, telephone, meter, valve, mechanical mail storage service and janitor rooms and galleries, fire prevention, security and communication systems, columns, pipes, base building electrical, plumbing and drainage systems, any central system for the provision of heating, ventilating or air conditioning to leasable premises or any enclosed Common Areas and all other installations, equipment or services located therein or related thereto as well as the structures housing the same. Common Areas further include any such interior areas, facilities, utilities, improvements, equipment and installations, including but not limited to all open and enclosed malls, courts and arcades, public seating and service areas, corridors, furniture, first aid and/or information stations, auditoria, conference rooms, nurseries, childcare play areas and related kitchen and storage facilities, escalators, elevators, public washrooms, and music systems.

- (h) "CPI" means the Consumer Price Index (All Items) for Canada (or any index published in substitution for the Consumer Price Index or any other replacement index reasonably designated by the Landlord, if it is no longer published) published by Statistics Canada (or by any successor thereof or any other governmental agency, including a provincial agency).
- (i) "Environmental Laws" has the meaning in Section 7.06(a) of this Lease.
- (j) "Event of Default" means any event specified as such in Section 13.01 of this Lease.
- (k) "Gross Receipts" means the total of all gross sales and receipts from all business conducted upon or from the Leased Premises, whether or not by the Tenant, and whether for cash, cheques, credit, charge account, exchange or otherwise, and shall include, but not be limited to, amounts received or receivable from the sale of goods or services and the amount of all orders taken or received at the Leased Premises regardless of where they are filled, whether such sales be made at a sales desk or counter, over the telephone or by any vending device. Interest, instalment, finance charges and deposits will be included, and bank or collection agency charges and uncollectible amounts or bad debts will not be deducted. A credit or instalment sale will be considered as a sale for the full price in the month in which it takes place. Gross Receipts shall not include:
 - (i) sales for which the customer has received a refund, provided that the original sale was included in Gross Receipts;
 - (ii) sales of merchandise in exchange for returned merchandise, but only to the extent the original sale of the returned merchandise was included in Gross Receipts;
 - (iii) Rental Taxes and any other sales, use, excise or Gross receipts tax directly on sales and collected from customers at the point of sale, provided that the amount thereof is added to the selling price and shown and/or collected as a separate item, and paid by the Tenant to such governmental authority;
 - (iv) delivery charges;
 - (v) transfers of merchandise between stores of the Tenant or returned to suppliers of the Tenant, but only if such transfer or return is not for the purpose of reducing Gross Receipts.
- (l) "Hazardous Substances" has the meaning set out in Section 7.06(a) of this Lease.
- (m) "Indemnifier" means a person, if any, who has executed or agreed to execute the Indemnity Agreement that is attached to this Lease as Appendix "A" or any other indemnity agreement in favour of the Landlord.
- (n) "Landlord" means the party named as Landlord in this Lease.

- (o) "Lease" means this indenture of lease and includes any riders and schedules hereto and shall also include any agreements entered into which have the effect of amending this indenture from time to time.
- (p) "Leased Premises" means the premises leased to the Tenant as referred to and described in Section 2.01 hereof. Save as mentioned below, the boundaries of the Leased Premises shall extend from the top surface of the structural sub floor to the bottom surface of the structural ceiling. If the Leased Premises have no ceiling abutting the demising walls, but rather are open to the ceiling of the Shopping Centre building, the boundaries of the Leased Premises extend from the top surface of the structural sub floor to the height of the demising walls.
- (q) "Lease Year" means, in the case of the first Lease Year, a period of twelve (12) consecutive calendar months from and after the Commencement Date (plus the part of the month, if any, from the Commencement Date to and including the last day of the month in which the Commencement Date occurs if the Commencement Date does not occur on the first day of a month) and, in the case of Lease Years after the first Lease Year, is a period of twelve (12) consecutive calendar months starting on the first day after the Lease Year that immediately precedes it. However, the last Lease Year, whether it is twelve (12) calendar months or not, terminates on the expiry or earlier termination of this Lease.
- (r) "Management Company" means a company or other entity, if any, retained by the Landlord from time to time to operate or manage the Shopping Centre.
- (s) "Minimum Rent" means the annual minimum rent payable by the Tenant pursuant to Section 3.01
- (t) "Mortgagee" means any mortgagee, chargee or hypothecary creditor (including any trustee for bondholders) of the Shopping Centre or any part thereof.
- (u) "Operating Costs" means, subject to the exclusions set out below in this Section 1.01(u), the total costs and expenses of every kind and nature incurred, accrued, paid, payable or attributable, whether by or on behalf of the Landlord, to or in respect of owning, operating, maintaining, repairing, replacing, supervising, managing and administering the Shopping Centre, excluding only the original acquisition costs and financing and mortgage charges but without limitation including the following:
 - (i) gardening and landscaping charges;
 - (ii) the costs and expenses of all insurance maintained by Landlord in respect of the Shopping Centre and its operation, including amounts to defend and pay claims and the amounts of losses incurred or claims paid below insurance deductibles;
 - (iii) the costs and expenses of cleaning, pest control, recycling, snow removal, garbage and waste collection and disposal;
 - (iv) the costs and expenses of lighting, electricity, gas, fuel, water, steam, public utilities, loud speakers, public address and musical broadcasting systems and any telephone answering service used in or serving the Shopping Centre;
 - (v) the costs and expenses of electricity and maintenance, insurance, repairs and replacements of any signs designated by the Landlord as part of the Common Areas;
 - (vi) the costs and expenses of providing policing, security, supervision and traffic control;
 - (vii) all Taxes not recovered from tenants of the Shopping Centre ;

- (viii) any capital tax, large corporations tax or place of ownership tax levied against the Landlord or the Owners on account of its interest in or ownership of the Shopping Centre in an amount equitably allocated to the Shopping Centre by the Landlord ;
- (ix) a fair market rental charge imposed by the Landlord in its sole discretion for the non-leasable service areas serving the Shopping Centre, including any enclosed garbage, utility, transformer, electrical, telephone or storage room or rooms;
- (x) a fair market rental charge imposed by the Landlord in its sole discretion on all areas utilized by the Landlord or its manager for the operation and management of the Shopping Centre;
- (xi) third party property management fees;
- (xii) salaries and benefits of all supervisory and other personnel employed in connection with the Shopping Centre;
- (xiii) the costs and expenses of providing additional parking or other Common Areas for the benefit of the Shopping Centre, whether such costs be land rent, Taxes or other type of costs;
- (xiv) the costs and expenses of environmental site reviews and investigations, removal and/or clean-up of Hazardous Substances from the Common Areas;
- (xv) equipment rental costs and costs (including rental costs) of tools and supplies used in the operation, maintenance, cleaning, repair or replacement of the Shopping Centre;
- (xvi) the costs and expenses of the rental of any equipment and signs and the costs and expenses of supplies used in the operation, maintenance, repair and replacement of the Shopping Centre;
- (xvii) auditing, accounting, legal and other professional and consulting fees and disbursements incurred in connection with the maintenance and operation of the Shopping Centre, including those incurred with respect to the preparation of the statements required under this Lease and the costs and expenses incurred by the Landlord of determining or verifying the accuracy or reasonableness of or in contesting or appealing Taxes in good faith (whether or not successful);
- (xviii) the costs and expenses of heating, ventilating and air conditioning the Common Areas;
- (xix) the costs and expenses of
 - (1) operating, maintaining, modifying, repairing and replacing the Shopping Centre and the Common Areas, including without limitation those made by the Landlord in order to comply with Applicable Laws or required by the Landlord's insurance carrier or resulting from normal wear and tear to the Shopping Centre or the Common Areas;
 - (2) providing, installing, modifying, upgrading and operating energy and water conservation equipment and systems, telephone answering services, information systems, life safety and emergency response systems, materials and procedures, and telecommunications and broadband systems and equipment (if any);
 - (3) repairing and replacing all maintenance, cleaning and other machinery and equipment, master utility meters and all other

systems, fixtures, equipment and facilities serving or comprising the Shopping Centre or the Common Areas,

all to the extent that such costs and expenses are fully chargeable in the Accounting Period in which they are incurred as determined from time to time by the Landlord in accordance with sound accounting principles;

- (xx) depreciation or amortization of the costs and expenses referred to in Section 1.01(u)(xix) above which are not charged fully in the Accounting Period in which they are incurred, from the earlier of the date when the cost or expense was incurred or the Commencement Date, at rates and for periods determined from time to time by the Landlord in accordance with sound accounting principles and interest calculated at two (2) percentage points above the Prime Rate on the date the expenditure is incurred upon the entire life of the asset; and
 - (xxi) an administration fee of fifteen percent (15%) of the total of all of the above costs, excluding only interest on undepreciated or unamortized costs.
- (v) "Owners" means the owner or owners from time to time (other than the Landlord) of the freehold or leasehold title of the Shopping Centre.
 - (w) "Percentage Rent" means [intentionally deleted].
 - (x) "Person" means an individual, firm, partnership, corporation, trust, unincorporated organization, government or any department or agency thereof of any combination or groups of them.
 - (y) "Possession Date" means the date set out in a written notice from the Landlord on which the Leased Premises ready for commencement of the Tenant's Work estimated to be **February 1, 2019**.
 - (z) "Prime Rate" means the annual rate of interest from time to time publicly quoted by any Canadian chartered bank designated by the Landlord as its reference rate of interest for determining rates of interest chargeable in Toronto on Canadian dollar demand loans to commercial customers.
 - (aa) "Proportionate Share" means a fraction, the numerator of which is the Rentable Area of the Leased Premises and the denominator of which is the Rentable Area of the Shopping Centre.
 - (bb) "Released Persons" means, collectively and individually, the Landlord, the Management Company, the Owners, the Mortgagee and all asset managers of the Landlord and/or Owners. In sections that contain a release or other exculpatory provision or an indemnity in favour of any or all of the Released Persons, such Released Person or Released Persons shall include the officers, shareholders, directors, employees, servants, contractors and agents of each of the Released Persons together with those for whom the Released Persons are responsible at law and the Landlord acts as agent for, or as trustee for, the benefit of all Released Persons and other Persons referred to herein so that each such release, indemnity and/or other exculpatory provision is fully enforceable by them.
 - (cc) "Rent" means all Minimum Rent, and Additional Rent (if any) payable pursuant to the terms of this Lease.
 - (dd) "Rentable Area" for any leasable premises in the Shopping Centre (including the Leased Premises but excluding kiosks and storage areas) means the area expressed in square feet of all floors of such leasable premises measured from:
 - (i) the exterior face of all exterior walls, doors and windows;
 - (ii) the exterior face of all interior walls, doors and windows separating the leasable premises from Common Areas, if any; and

- (iii) the centre line of all interior walls separating the leasable premises from adjoining leasable premises.

The Rentable Area of kiosks and storage areas will, subject to the following provisions of this Section 1.01(dd), be determined by the Landlord. The Rentable Area of the Leased Premises includes all interior space whether or not occupied by projections, structures or columns, structural or non structural, and if the store front is recessed from the lease line, the area of such recess for all purposes lies within the Rentable Area of the Leased Premises. If the Leased Premises have the benefit of the use of any common loading areas, utility rooms, garbage rooms, hallways or other Common Areas (in common with any other tenant(s) in the Shopping Centre), the area of the Leased Premises shall be grossed up to include a portion of the area of such common loading areas, utility rooms, garbage rooms, hallways or other Common Areas as attributed or allocated by the Landlord from time to time to the Leased Premises.

- (ee) "Rentable Area of the Shopping Centre" means the aggregate Rentable Area of all leasable premises in the Shopping Centre set aside for leasing by the Landlord from time to time except for the following types of leasable premises: kiosks; storage areas, basements and mezzanines; free-standing buildings; department stores and supermarkets; leasable premises which are not department stores or supermarkets with a Rentable Area of 15,000 square feet or more; theatres or cinemas; gas bars; premises not having direct enclosed pedestrian access to and frontage on an enclosed mall; leasable premises located on a floor generally designated by the Landlord for use or occupancy by office tenants or for office purposes (whether or not such leasable premises are in fact used by an office tenant or for office purposes); bowling lanes; recreational, sports or health facilities; libraries, post offices and other governmental or public offices, agencies or services; charitable organizations; community facilities; daycare facilities; and customer care or information booths. Provided however that in accordance with the definition of Operating Costs in Section 1.01(u), the Landlord shall credit to Operating Costs any contributions received in respect of such Operating Costs from the occupants of any of the areas excluded from the Rentable Area of the Shopping Centre in accordance with this definition. Provided further that in determining the fraction that is the Tenant's Proportionate Share, if the Leased Premises consists of any of the foregoing excluded categories, the Rentable Area of that category will be included in the Rentable Area of the Shopping Centre.
- (ff) "Rental Taxes" has the meaning in Section 4.03 of this Lease.
- (gg) "Rules and Regulations" means the rules and regulations adopted and promulgated by the Landlord from time to time acting reasonably and in such manner as would a prudent landlord of a reasonably similar shopping centre, including those listed on Schedule "D".
- (hh) "Shopping Centre" means the lands and premises described in Schedule "A" attached hereto as such lands and premises may be altered, expanded or reduced from time to time and the buildings, improvements, equipment and facilities erected thereon or situate from time to time therein.
- (ii) "Taxes" means all duties, real property taxes, charges, rates, duties, assessments (including local improvement rates) and payments, from time to time levied, rated, charged, assessed or imposed upon the Shopping Centre or any part thereof or upon the Landlord by reason of its ownership of the Shopping Centre or its interest therein, by any Authority. Taxes shall include, without limitation, real property taxes, business taxes, impost charges or levies, surtaxes, garbage taxes, transit taxes, local improvement rates, parking area or parking site taxes and any other taxes, assessments or duties, levied, laid or assessed in substitution for any of the foregoing taxes or in addition to any of the foregoing taxes, whether of the foregoing character or not and whether or not in existence at the commencement of the Term. Taxes shall also include any penalties, late payment or interest charges imposed by any Authority as a result of the Tenant's late payments of any Taxes or any installments thereof. In all cases, Taxes shall be calculated on the basis of

the Shopping Centre being assessed and taxed as fully occupied and taxable. Any rebates refunded to the Landlord under any type of vacancy rebate program shall be to the sole benefit of the Landlord.

- (jj) "Tenant" means the party named as Tenant in this Lease. Where there is an obligation on the Tenant requiring it to do an act under this Lease or a prohibition against the Tenant requiring it to refrain from doing an act under this Lease, then the Tenant shall be liable for the non-performance of such obligations and for the non-observance of such prohibitions by all Persons for whom the Tenant is, in law, responsible, and the term "Tenant" shall include all Persons for whom the Tenant is, in law, responsible.
- (kk) "Tenant's Share of Taxes" means the Tenant's share of Taxes which are payable by the Tenant under Section 4.02 of this Lease.
- (ll) "Term" means the period referred to in Section 2.03 as same may be extended or renewed.

ARTICLE II GRANT, TERM AND INTENT

2.01 Leased Premises

In consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Tenant to be paid, observed and performed, the Landlord demises and leases to the Tenant and the Tenant leases from the Landlord, the Leased Premises. The Leased Premises are presently designated as **Unit No. C042** and are shown in the approximate location cross-hatched on Schedule "B" attached hereto and contain a Rentable Area of **approximately 8,363 square feet**. If required by the Landlord, the Rentable Area will be measured by the Architect in accordance with this Lease and the Rentable Area and all Minimum Rent that is calculated upon it will be adjusted accordingly retroactive to the Commencement Date.

2.02 Use of Common Areas

The use and occupation by the Tenant of the Leased Premises shall entitle the Tenant to the use in common with all others entitled thereto of the Common Areas, subject however, to the terms and conditions of this Lease and to reasonable rules and regulations for the use thereof as prescribed from time to time by the Landlord.

2.03 Term of Lease

(a) TO HAVE AND TO HOLD the Leased Premises for and during the Term that starts on the Commencement Date (as defined next) and ends **ten (10) years** after the Commencement Date (unless the Commencement Date does not occur on the first day of a calendar month in which case the Term ends **ten (10) years** after the last day of the month in which the Commencement Date occurs), subject, however, to earlier termination in accordance with this Lease.

(b) The Commencement Date is the earlier to occur of (i) the day immediately following the last day of the Fixturing Period referred to below, (ii) the date on which the Tenant first opens any part of the Leased Premises to the public for business, and (iii) the first anniversary of the date of this Lease.

(c) The Tenant will be given a fixturing period of **ninety (90) days** commencing on the Possession Date (the "**Fixturing Period**"). During the Fixturing Period the Tenant will work diligently to complete all of the Tenant's Work and to install its fixtures and inventory and to open for business within the Leased Premises. During the Fixturing Period the Tenant will not be responsible to pay Minimum Rent save for that arising by virtue of a default of the Tenant and except for utilities and garbage removal in respect of the Leased Premises. All other terms of the Lease shall apply during the Fixturing Period. However, the Tenant will not be permitted access to the Leased Premises until it has delivered to the Landlord:

(i) a certificate of general liability insurance from its contractor and Builders Risk & Wrap Up insurance both in the minimum amount of \$10,000,000.00 in accordance with the Landlord's general requirements and a certificate from the Tenant's insurers indicating that all insurance required under this Lease is in full force and effect;

(ii) the Tenant's professionally prepared plans and drawings of the Tenant's Work which is subject to the Landlord's prior written approval (not to be unreasonably withheld);

(iii) confirmation that the Tenant has obtained all necessary permits to undertake the Tenant's Work; and

(iv) this Lease as fully executed by the Landlord and Tenant (and, if applicable, the Indemnifier).

(d) Access by the Tenant to the Leased Premises prior to the Commencement Date is on a non-exclusive basis, the Tenant acknowledging that during the Fixturing Period the Landlord will be permitted to occupy and have joint possession of the Leased Premises with the Tenant to complete the Landlord's Work and the Landlord and Tenant shall each use their best efforts during this period to ensure that they each have free and uninterrupted access to the Leased Premises to complete their respective work.

(e) However, if the Possession Date has not occurred within **six (6) months** of the date of this Lease, then the Landlord may, at its option, terminate this Lease by written notice to the Tenant and in such event this Lease shall be null and void and of no effect whatsoever. Any deposit paid by the Tenant to the Landlord shall be returned without interest or deduction, and neither party shall have any further liability to the other.

(f) In the event the Tenant fails to take possession and to open the Leased Premises for business fully fixtured, stocked and staffed on the Commencement Date, then the Landlord shall, in addition to any and all remedies herein provided, have the option, after providing fifteen days notice to the Tenant during which the Tenant has not cured such default, to terminate this Lease upon notice to the Tenant and to recover from the Tenant the cost of all work done by the Landlord pursuant to Schedule "C" hereof and/or on the Tenant's behalf, without prejudice to any of the Landlord's rights or remedies hereunder or at law.

(g) The Tenant shall pay all Rent calculated on a per diem basis, from the Commencement Date to the last day of the month in which the Commencement Date occurs and thereafter all payments of Rent shall be made on the first day of each month throughout the Term without any deduction, abatement or set-off whatsoever unless otherwise specified herein.

2.04 Extension of Term

[Intentionally deleted].

2.05 Minimum Lease Intent

The Tenant acknowledges and agrees that it is intended that this Lease is a completely carefree Minimum lease to the Landlord, except as expressly herein set out, that the Landlord is not responsible during the Term for any costs, charges, expenses and outlays of any nature whatsoever arising from or relating to the Leased Premises, or the use and occupancy thereof, or the contents thereof, or the business carried on therein, and the Tenant shall pay all charges, impositions, costs and expenses of every nature and kind relating to the Leased Premises except as expressly herein set out.

2.06 Construction of the Leased Premises

The Landlord and the Tenant hereby agree to observe and comply with the general provisions set forth in Schedule "C" attached hereto which sets out any Landlord's Work and Tenant's Work.

The Landlord is not obligated to proceed with or complete the construction of the Shopping Centre or any part thereof for any reason whatsoever as determined in its sole discretion. If the Landlord decides not to proceed with or complete the construction of that

portion of the Shopping Centre which contains the Leased Premises, the Landlord shall so notify the Tenant in writing and thereupon this Lease shall terminate and each of the parties hereto shall be relieved and discharged from any and all liability and responsibility hereunder and any deposit being held by the Landlord shall be returned to the Tenant without interest or deduction, so long as the Tenant is not then in default.

If the Landlord elects not to terminate the Lease and should the Tenant be delayed by any fault of the Landlord or any other reason (other than the fault of the Tenant) in taking possession of the Leased Premises at the start of the Fixturing Period, then and only then shall the start of the Fixturing Period, the Commencement Date and the Term be postponed for the same number of days that the Tenant is delayed in taking possession of the Leased Premises. The Tenant hereby acknowledges and agrees that such postponement shall be full settlement for any claims it might have against the Landlord for such delay.

2.07 Covenant to Pay

The Tenant covenants to pay Rent payable under this Lease to the Landlord at the address set out in Section 15.09(a) of this Lease (or, at the Landlord's written direction, at such other address and/or to such other Person such as the Management Company as is directed by the Landlord) and in Canadian funds, without demand and without deduction, abatement (save and except where expressly permitted under Article X of this Lease), set-off or compensation.

ARTICLE III RENT AND DEPOSIT

3.01 Minimum Rent

During each Lease Year throughout the Term, the Tenant shall pay the following Minimum Rent (calculated upon a Rentable Area of approximately 8,363 square feet and subject to adjustment in accordance with Section 2.01 if the Rentable Area of the Leased Premises is certified), payable in equal consecutive monthly instalments in advance on or before the first day of each month.

Years	S/sq. Ft.	Monthly Instalments	Annual Minimum Rent
1-5	\$7.90	\$5,505.64	\$66,067.70
6-10	\$8.90	\$6,201.55	\$74,430.70

*plus the part of the month from the Commencement Date to and including the last day of the month in which the Commencement Date occurs if the Commencement Date does not occur on the first day of a calendar month.

3.02 Percentage Rent

[intentionally deleted].

(e) [intentionally deleted]

3.03 Tenant's Records

[intentionally deleted].

3.04 Right to Examine Books

[intentionally deleted].

3.05 Audit

[intentionally deleted].

3.06 Rent Past Due

If the Tenant fails to pay, when the same is due and payable, any Rent or other amount payable by the Tenant under this Lease, such unpaid amounts shall bear interest from the due date thereof to the date of payment, compounded monthly at the rate equal to four (4) percentage points in excess of the Prime Rate, or at the Landlord's option, at the maximum annual rate permitted by law.

3.07 Advance Rent and Security Deposit

(a) The Tenant agrees to deliver to the Landlord with the Tenant's acceptance of this Lease, the sum of **\$18,816.75 plus applicable taxes**, receipt of which is hereby acknowledged by the Landlord which shall, subject to the provisions of Section 3.07 below, be applied by the Landlord as follows: (a) an amount equal to **\$9,059.92 plus applicable taxes** (the "Advance Rent") shall be applied to the first full month's payment of Rent due under this Lease, and (b) and the remaining amount of **\$9,756.83 plus applicable taxes** (the "Security Deposit") shall be held by the Landlord as a security deposit subject to Section 3.07 (b) and (c) below. This right will not be construed to limit the Landlord's other rights under this Lease or at law or to limit the amount recoverable by the Landlord for damages in respect of breaches by the Tenant of this Lease. The Landlord will not be required to pay interest to the Tenant on any of the amounts paid to the Landlord or retained by it under this Section 3.07. The Tenant will not assign or encumber its interest in the Advance Rent or Security Deposit except in connection with a permitted Transfer, in which case the Tenant's interest in the Advance Rent and Security Deposit will be deemed to have been assigned to the permitted Transferee as of the date of the Transfer.

(b) If at any time the Rent or other sums payable by the Tenant to the Landlord under this Lease are overdue and unpaid, or if the Tenant fails to keep or perform any of the terms, covenants and conditions of this Lease to be kept, observed and performed by the Tenant or if the Tenant is bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors, then the Landlord, at its sole option, may, in addition to any and all other rights and remedies provided for in this Lease or by law, appropriate and apply the entire Security Deposit, or so much thereof as is necessary to compensate the Landlord for loss or damage sustained or suffered by the Landlord due to such breach (including, without limitation, and without limiting the Landlord to the amount of the Security Deposit, all lost Rent over what would have been the balance of the Term if this Lease is terminated). If the entire Security Deposit, or any portion of it, is appropriated and applied by the Landlord for the payment of overdue Rent or other sums due and payable to the Landlord by the Tenant hereunder, then, the Tenant shall, upon demand of the Landlord, forthwith remit to the Landlord a sufficient amount in cash to restore the Security Deposit to the original sum deposited, and the Tenant's failure to do so within five (5) days after receipt of such demand constitutes a breach of this Lease. If the Tenant complies with all of the terms, covenants and conditions and promptly pays all of the Rent and other sums herein provided payable by the Tenant to the Landlord, the Security Deposit shall be returned in full to the person or entity who is then the Tenant under this Lease without interest within sixty (60) days after the end of the Term, or any extension or renewal term thereof and upon delivery to the Landlord of vacant possession of the Leased Premises in accordance with this Lease.

(c) The Landlord shall deliver or assign the Security Deposit and any Advance Rent that is then in its possession to any purchaser of the interest of the Landlord, if such interest in the Shopping Centre is sold, and thereupon the Landlord is discharged from any further liability with respect to the Security Deposit or, any applicable, Advance Rent.

3.08 Pre-Authorized Payments /Electronic Funds Transfer/Post-dated Cheques

The Tenant shall participate in a pre-authorized payment plan whereby the Landlord will be authorized to debit the Tenant's bank account each month or from time to time during each Lease Year in an amount equal to the Rent, generally any amount payable pursuant to the provisions of this Lease on an estimated basis. The Tenant shall sign a form of application which is the same or similar to Schedule "F" to give full force and effect to the foregoing within five (5) days of presentation. In the alternative, the Tenant will, upon request of the Landlord, make all payments under this Lease by way of electronic funds transfer from the Tenant's bank account and will execute and deliver either concurrently with this Lease or from time to time within three (3) business days following the Landlord's request, such documentation as may be

required by the Landlord and its bank in order to effect all payments under this Lease by electronic funds transfer.

In lieu of the pre-authorized payment plan or electronic funds transfer referred to above, the Landlord shall be entitled to require the Tenant to present at the beginning of each Lease Year throughout the Term a series of monthly post-dated cheques for each such Lease Year for the aggregate of the monthly payments of Rent generally any amount payable provisionally pursuant to the provisions of this Lease on an estimated basis.

3.09 Landlord's Estimates and Subject to Adjustment

(a) Prior to the Commencement Date and the beginning of each Accounting Period included within the Term, the Landlord shall deliver to the Tenant a bona fide estimate for that particular Accounting Period of the Tenant's Share of Taxes, its Proportionate Share of Operating Costs and, without further notice, the Tenant shall pay to the Landlord, in monthly instalments in advance on the first day of each calendar month, one-twelfth (1/12) of such estimates simultaneously with the Tenant's payments of Minimum Gross Rent during such Accounting Period.

All estimates provided by the Landlord or its representatives to the Tenant on account of Taxes, Operating Costs, and any other charges under this Lease are estimates only based on information available to the Landlord at the time of making such estimates and are subject to confirmation and adjustment by the Landlord at the end of the particular Accounting Period in respect of which they have been made. The Landlord makes no representation or warranty as to the accuracy of these estimates save and except that it has acted bona fide in making such estimates.

(b) The Landlord shall use reasonable commercial efforts to deliver to the Tenant within one hundred and eighty (180) days after the end of each Accounting Period included within the Term a statement (the "Statement") setting out (i) the total amount of Operating Costs and Taxes for that particular Accounting Period, and (ii) the Tenant's Share of Taxes and its Proportionate Share of Operating Costs which are payable by the Tenant for such Accounting Period. If the Tenant has paid less than a Statement specifies, the Tenant will pay the deficiency with the next monthly payment of Rent. If the Tenant has paid more than a Statement specifies, the Landlord shall credit the Tenant's account without interest. The failure of the Landlord to render any Statement under this Section 3.09 shall neither prejudice the Landlord's right to render such Statement thereafter or with respect to any other period, nor relieve the Tenant from its obligations hereunder. The rendering of any such Statement shall not affect the Landlord's right to subsequently render an amended or corrected Statement.

(c) If an Accounting Period that is included within the Term is less than twelve (12) calendar months, the Tenant's Share of Taxes and the Tenant's Proportionate Share of Operating Costs will be adjusted on a per diem basis, based on three hundred and sixty-five (365) days.

(d) The Tenant may dispute a Statement and claim a readjustment in respect of all or any of the Taxes or Operating Costs for any Accounting Period only by giving written notice with specifics and details to the Landlord within six (6) months after its receipt of the Statement in respect of that particular Accounting Period. In the event of a dispute, the Tenant shall nevertheless make payment in accordance with the Statement and, if the dispute is not resolved, the Landlord will refer the disagreement for prompt decision to an independent professional consultant who is qualified by education and experience to make such decision and who shall be deemed to be acting as an expert and not an arbitrator. The consultant's signed determination shall be final and binding on both the Landlord and Tenant and any adjustment required to any previous payment made by the Tenant or Landlord by reason of any such determination shall be made within fourteen (14) days of that decision, and the party required to pay such adjustment shall bear all costs of the consultant unless the amount to be paid is three percent (3%) or less of the amount in dispute, in which case the Tenant shall pay all such costs.

ARTICLE IV TAXES

4.01 Taxes Payable by Landlord

The Landlord shall pay all Taxes which are levied, rated, charged, assessed or imposed against the Shopping Centre or any part thereof subject always to the provisions of this Lease regarding payment of Taxes by the Tenant. However, the Landlord may defer payment of any such Taxes or defer compliance with any Applicable Laws in each case to the fullest extent permitted by Applicable Laws, so long as it diligently prosecutes any contest or appeal of any such Taxes.

4.02 Taxes Payable by Tenant

During each Accounting Period included within the Term the Tenant shall pay to the Landlord, as Additional Rent, the Tenant's Share of Taxes which, subject to Sections 0, and 0 below, shall be its Proportionate Share of all Taxes that are levied, rated, charged, assessed or imposed against the Shopping Centre during such Accounting Periods.

Notwithstanding Section 0, at the Landlord's sole option, the Landlord may elect from time to time to determine the Tenant's Share of Taxes on either of the following basis: (i) based on a separate tax bill issued by the relevant taxing authority in respect of the Leased Premises (but if such separate tax bill does not include the Taxes that are payable by the Tenant in respect of the Common Areas, then in addition to paying Taxes for the Leased Premises as set out in the separate tax bill, the Tenant shall pay its Proportionate Share of all Taxes in respect of the Common Areas), or (ii) based on a separate assessment for the Leased Premises (but if such separate assessment does not include the Taxes that are payable by the Tenant in respect of the Common Areas, then in addition to paying Taxes for the Leased Premises as set out in the separate assessment, the Tenant shall pay its Proportionate Share of all Taxes in respect of the Common Areas) (or, if there are no separate assessments provided in respect of the Leased Premises, then at the Landlord's sole option the Landlord may determine the Tenant's Share of Taxes based on information received by the Landlord from the assessing authorities (including, without limitation, the assessor's working papers, notes and calculations) but the Taxes in respect of the Common Areas that are payable by the Tenant through this method shall not exceed the Tenant's Proportionate Share of Taxes in respect of the Common Areas. Additionally, notwithstanding Section 0, at the Landlord's sole option the Landlord may elect from time to time to determine the Tenant's Share of Taxes in whole or in part on some other reasonable basis and if the Landlord so elects, the Landlord will notify the Tenant in writing setting out the basis for the determination. Without limiting the preceding provisions of this Section 4.02, if any Taxes are imposed against the Shopping Centre or any part on a basis that does not relate to or reflect separate valuations or determinations in respect of leasable premises (for example, parking taxes based on paved or similar areas), then in respect of those particular Taxes the Tenant shall pay its Proportionate Share and such payment will form part of the Tenant's Share of Taxes.

Additionally, notwithstanding Section 0, at the Landlord's sole option the Landlord may allocate Taxes amongst categories of leasable premises in the Shopping Centre on the basis of such factors as the Landlord reasonably determines to be relevant (such as, by way of example, the types of business or activity carried on therein, the locations in the Shopping Centre, costs of construction, relative benefits derived by leasable premises, relative assessment values, non-public school support designations and vacancies) with the result that certain categories may be allocated a different amount of Taxes by the Landlord than the others. Provided that the allocation to the category in which the Tenant is placed by the Landlord is reasonable, the Landlord will be entitled to adjust the Tenant's Proportionate Share of Taxes having regard to the category in which the Tenant is placed by the Landlord.

The Tenant shall not contest or appeal any Taxes without the prior written consent of the Landlord, which consent may be withheld by the Landlord in its sole discretion.

4.03 Rental Taxes Payable by Tenant

The Tenant shall pay to the Landlord all taxes or duties imposed on either the Landlord or the Tenant in respect of the Rent payable under this Lease or in respect of the rental or rental

value of premises under this Lease, whether existing at the date of this Lease or hereafter imposed by Applicable Laws, including, without limitation, harmonized sales tax, goods and services tax, value added tax, business transfer tax, rental taxes, sales tax, federal sales tax, excise taxes or duties or any tax similar to the foregoing (collectively "Rental Taxes"). Rental Taxes are not considered Rent although the Landlord shall have all of the same remedies for, and rights of recovery with respect to such amounts, as it has for non-payment of Rent under this Lease or at law. If a deposit is forfeited to the Landlord or an amount becomes payable to the Landlord due to a default or as consideration for a modification of this Lease and Applicable Laws deems a part of the deposit or amount to include Rental Taxes, the deposit or amount will be increased to ensure that the full amount of the forfeited deposit or amount payable is received by the Landlord in full without encroachment by any deemed payment, input credit or otherwise.

4.04 Business Taxes and Other Taxes of Tenant

The Tenant shall pay as Additional Rent to the Authority or to the Landlord, as it may direct, and shall discharge in each Accounting Period included within the Term, when the same becomes due and payable:

(a) all taxes, rates, duties, assessments and other charges that are levied, rated, charged, assessed or imposed by any Authority against or in respect of: (i) all improvements, equipment and facilities of the Tenant on or in the Leased Premises or the Shopping Centre or any part or parts thereof or (ii) the Landlord on account of its ownership of or interest in the items referred to in subparagraph (i); and

(b) every tax and license fee which is levied, rated, charged, assessed or imposed by any Authority against or in respect of: (i) any business carried on in the Leased Premises or in respect of the use or occupancy thereof or any other part of the Shopping Centre by the Tenant and any subtenant, licensee, or other occupant of the Leased Premises, or (ii) the Landlord on account of its ownership thereof or interest therein, in respect of any business referred to in subparagraph (i).

If there are not separate tax bills provided for such taxes, the Landlord is entitled to allocate them to the Tenant using the methods referred to in Section 4.02 above.

ARTICLE V OPERATING COSTS, HVAC AND UTILITIES

5.01 Operating Costs Payable by Tenant

In each Accounting Period included within the Term the Tenant shall pay to the Landlord, as Additional Rent, its Proportionate Share of the Operating Costs for such Accounting Periods.

The Tenant agrees that (i) Operating Costs may be allocated or attributed by the Landlord directly to or between the various components of the Shopping Centre including the retail, office and storage areas, as well as to the enclosed mall and the other buildings, if any, comprising part of the Shopping Centre and that the Landlord may adjust Operating Costs and/or the Tenant's Proportionate Share in accordance with practices relevant to multi-use commercial developments on a basis consistent with the benefits derived by the tenants of each component of the Shopping Centre and having regard to the nature of the particular costs and expenses being allocated; and (ii) if the Tenant or any other tenant(s) of the Shopping Centre pursuant to its lease or otherwise by arrangement with the Landlord, provides at its cost any goods or services, the costs of which would otherwise be included in Operating Costs, or if any goods or services, the cost of which is included in Operating Costs benefit any portion of the Shopping Centre to a materially greater or lesser extent than any other portion of the Shopping Centre, then either the denominator for determining the Tenant's Proportionate Share or alternatively the amount of Operating Costs, may be adjusted as determined by the Landlord, acting reasonably, to provide for the equitable allocation of the costs of such goods and services amongst the tenants of the Shopping Centre.

5.02 Heating, Ventilating and Air Conditioning

Throughout the Term the Tenant shall maintain reasonable conditions of temperature and humidity within the Leased Premises as determined by the Landlord or its Architect and shall not operate or regulate the heating, ventilating and air conditioning equipment that serves the Leased

Premises in a manner that results in any direct or indirect appropriation of the heating, ventilating or air conditioning from the Common Areas. The Tenant shall comply with all rules and regulations of the Landlord pertaining to the maintenance and operation of such equipment.

If the Leased Premises are being served by a heating, ventilating and air conditioning system which serves solely the Leased Premises (such system and all parts and components of it being referred to as the "Tenant's HVAC Unit"), then the Tenant shall, at all times during the Term or any extensions thereof at its sole cost, keep, repair, replace and maintain in first class condition the Tenant's HVAC Unit as determined by the Landlord, acting reasonably. In this regard, the Tenant shall, at its own expense, obtain and keep in good standing during the Term of the Lease and any extensions or renewals thereof, a maintenance and service contract on the Tenant's HVAC Unit issued by a mechanical contractor approved by the Landlord and shall supply the Landlord with a copy of such contract.

In the event that the Landlord elects to maintain, repair and replace the Tenant's HVAC Unit serving the Leased Premises (which election the Landlord shall be entitled to make at any time throughout the Term) then the Tenant shall pay monthly in advance, as Additional Rent, the Landlord's costs and expenses of all repairs, replacements to and maintenance and operation of the Tenant's HVAC Unit or, at the Landlord's option, such costs and expenses shall be included in the Operating Costs. Such costs and expenses shall include, without limitation, the cost of preventative and scheduled maintenance, depreciation or amortization if the particular cost or expense was not charged in full in the year in which it was incurred (at rates on the various items as determined from time to time by the Landlord in accordance with sound accounting principles) together with interest or carrying charges calculated at two (2) percentage points above the Prime Rate on the undepreciated or unamortized portion of such costs, and an administration fee of fifteen percent (15%) of all of the repair, replacement, maintenance and operation costs. The foregoing costs and expenses shall exclude the cost of fuel and electricity consumed by the use of such equipment to the extent only that such costs and expenses are charged separately to and paid by the Tenant pursuant to other provisions of this Lease.

If the Leased Premises are served by a heating, ventilating and air conditioning system which serves more than one premises in the Shopping Centre but is not a central building system, then such costs and expenses shall be allocated by the Landlord amongst the users (including the Tenant) and the Tenant shall pay the amount which the Landlord has allocated to the Tenant as equitably determined by the Landlord upon the advice of a qualified engineer.

5.03 Utilities

The Tenant shall be solely responsible for and promptly pay all charges for heat, water, gas, electricity, steam, fuel and any other utility used or consumed in the Leased Premises (collectively "Utilities" and individually a "Utility") on the basis of separate meters, if existing in the Leased Premises. If there are no separate meters, the Tenant shall pay: (a) a share of the cost of such Utilities as equitably allocated by the Landlord; (b) the Landlord's costs of determining such share including, but not limited to, professional, engineering and consulting fees; and (c) an administration fee of fifteen percent (15%) of the total of (a) and (b). Alternatively, the Landlord may elect to include such costs in the Operating Costs. If the Landlord reasonably determines that the Tenant will be a heavy user of a particular Utility or has some other reasonable basis to require the Tenant to do so, the Tenant will install a separate meter or check meter (as determined by the Landlord) at the Tenant's expense.

ARTICLE VI PROMOTION FUND AND ADVERTISING

6.01 Opening Promotion

ARTICLE VII CONDUCT OF BUSINESS BY TENANT

7.01 Use of Leased Premises

The Tenant will not use or permit any part of the Leased Premises to be used for any purpose other than for the principal business of **storage and distribution of food products and associated offices** (the "Primary Use"). The Tenant shall at all times be in compliance with

all Applicable Laws and regulations which are now or hereafter be set forth by the municipal government of the municipality in which the Premises are situate and with such other Federal or Provincial regulations or laws which may be applicable in the circumstances. The Tenant shall operate in a first-class, reputable manner befitting the reputation and image of the Shopping Centre. The Tenant acknowledges the exclusive use rights granted to certain other tenants of the Shopping Centre more particularly described in Schedule "E" to this Lease and agrees to conduct its business in the Leased Premises in a manner that will not infringe upon any such exclusive use provisions.

The Tenant shall satisfy itself that the zoning of the lands comprising the Shopping Centre permit the use as set out above. The Tenant will not use or permit or suffer the use of the Leased Premises or any part thereof for any other business or purpose. In connection with the business to be conducted by the Tenant on the Leased Premises, the Tenant shall only use the advertised name "WESTEAST" and will not change the advertised name of the business to be operated in the Leased Premises without the prior written consent of the Landlord.

The Tenant acknowledges that there are restrictive covenants and exclusive covenants in favour of other tenants and occupants of the Shopping Centre or otherwise binding upon the Landlord or the Shopping Centre, and accordingly the Tenant shall not introduce new product lines, or offer new services to its customers without first obtaining the written consent of the Landlord. The Tenant acknowledges that it would be reasonable for the Landlord to withhold its consent if the introduction by the Tenant of such product line or service would compete with the business of any other tenant or occupant or prospective tenant or occupant in the Shopping Centre or infringe or violate any restrictive covenants or exclusive covenants in favour of any other tenant or occupant of the Shopping Centre or otherwise binding upon the Landlord or the Shopping Centre.

Unless otherwise specifically set out in this Lease to the contrary, nothing contained in this Lease shall: (i) confer upon the Tenant the exclusive right to sell or provide in the Shopping Centre any of the products or services permitted to be sold or provided from the Leased Premises pursuant to this Section 7.01; or (ii) prevent the Landlord from leasing any other premises in the Shopping Centre to any other tenant or occupant carrying on a business which is similar in whole or in part to the business permitted to be carried on from the Leased Premises pursuant to this Section 7.01.

7.02 Exclusive Use

[Intentionally deleted].

7.03 Conduct and Operation of Business

The Tenant shall occupy the Leased Premises from and after the Commencement Date and thereafter shall continuously, actively and diligently conduct the business set out in Section 7.01 in the whole of the Leased Premises. In the conduct of the Tenant's business pursuant to this Lease the Tenant shall:

(a) operate its business with due diligence and efficiency and maintain an adequate staff to properly serve all customers; own, install and keep in good order and condition free from liens or rights of third parties, fixtures and equipment of first class quality; and carry at all times such stock of goods and merchandise of such size, character and quality as will produce the maximum volume of sales from the Leased Premises consistent with good business practices;

(b) conduct its business in the Leased Premises in a proper and efficient manner in keeping with the highest standards of the shopping centre industry during such hours and on such days as the Landlord from time to time requires or permits and at no other time. However the Tenant is not required or permitted to carry on its business during any period prohibited by any Applicable Laws regulating the hours and/or days of business. If the Tenant fails to open for business in the Leased Premises on the Commencement Date or fails to conduct its business in the Leased Premises during the days and/or hours required by the Landlord, then in addition to all other amounts of Rent payable under this Lease the Tenant shall pay as Additional Rent to the Landlord upon demand as liquidated damages and not as a penalty, an amount equal to Two Hundred Dollars (\$200.00) per day for each and every day that the Tenant is in default.

- (c) keep displays of goods and merchandise in the display windows (if any) of the Leased Premises, and keep the display windows and signs (if any) in the Leased Premises well-lit during the hours the Landlord designates from time to time;
- (d) stock in the Leased Premises only such goods and merchandise the Tenant intends to offer for retail sale from the Leased Premises, and not use any portion of the Leased Premises for office, clerical or other non-selling purposes except minor parts reasonably required for the Tenant's business in the Leased Premises;
- (e) abide by all rules and regulations and general policies formulated by the Landlord from time to time relating to the delivery of goods and merchandise to the Leased Premises;
- (f) not allow or cause to be committed any waste upon or damage to the Leased Premises or any nuisance or other act or thing which disturbs the quiet enjoyment of any other tenant in the Shopping Centre or which unreasonably disturbs or interferes with or annoys any third party, or which may damage the Shopping Centre;
- (g) not allow or cause to be done any act in or about the Common Areas or the Shopping Centre which in the Landlord's opinion hinders or interrupts the Shopping Centre's flow of traffic in any way obstructs the free movement of parties doing business in the Shopping Centre;
- (h) not allow or cause business to be solicited in any part of the Shopping Centre other than the Leased Premises, nor display any goods or merchandise outside the Leased Premises at any time without the prior written consent of the Landlord;
- (i) use the name designated for the Shopping Centre by the Landlord from time to time and all insignia or other identifying names and marks designated by the Landlord in connection with the advertising of the business conducted in the Leased Premises. Notwithstanding the foregoing the Tenant will not acquire any rights in such names, marks or insignia and upon the Landlord's request the Tenant will abandon or assign to the Landlord any such rights which the Tenant may acquire by operation of law and will promptly execute any documents required by the Landlord to give effect to this subparagraph;
- (j) not install or allow in the Leased Premises any transmitting device nor erect any aerial on the roof of any building forming part of the Shopping Centre or on any exterior walls of the Leased Premises or in any of the Common Areas. Any such installation shall be subject to removal by the Landlord without notice at any time and such removal shall be done and all damage as a result thereof shall be made good, in each case, at the cost of the Tenant, payable as Additional Rent on demand;
- (k) not use any traveling or flashing lights or signs or any loudspeakers, television, phonograph, radio or other audiovisual or mechanical devices in a manner so that they can be heard or seen outside of the Leased Premises, without the prior written consent of the Landlord. If the Tenant uses any such equipment without receiving the prior written consent of the Landlord, the Landlord shall be entitled to remove such equipment without notice at any time and such removal shall be done and all damage as a result thereof shall be made good, in each case, at the cost of the Tenant, payable as Additional Rent on demand;
- (l) not install or allow in the Leased Premises any equipment which will exceed or overload the capacity of any utility, electrical or mechanical facilities in the Leased Premises or of which the Landlord has not approved. If the Tenant requires additional utility, electrical or mechanical facilities, the Landlord may in its sole discretion if they are available elect to install them at the Tenant's expense and in accordance with plans and specifications to be approved in advance in writing by the Landlord;
- (m) not bring upon the Leased Premises any machinery, equipment, article or thing that by reason of its weight, size or use, might in the opinion of the Landlord damage the Leased Premises or overload the floors of the Leased Premises. Any such machinery, equipment, article or thing shall be subject to removal by the Landlord without notice at any time and such removal shall be done and all damage as a result thereof shall be made good, in each case, at the cost of the Tenant, payable as Additional Rent on demand;
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(n) observe and comply with all Applicable Laws pertaining to or affecting the Leased Premises, the Tenant's use of the Leased Premises or the conduct of any business in the Leased Premises, or the making of any repairs, replacements, alterations, additions, changes, substitutions or improvements of or to the Leased Premises, and the regulations of any insurance underwriters in respect of the insurance maintained by the Landlord in respect of the Shopping Centre, and carry out all modifications to the Leased Premises and the Tenant's conduct of business in or use of the Leased Premises which may be required to effect observance and compliance with such Applicable Laws and such regulations of any such insurance underwriters in respect of such insurance; and

(o) at the Landlord's request, the Tenant shall comply with any directive, policy or request of any Authority or any other request of the Landlord, in respect of any energy conservation, water conservation, waste management, health, safety, security or other matters relating to the operation of the Leased Premises or the Shopping Centre.

7.04 Prohibited Activities

(a) The Tenant acknowledges that it is only one of many tenants in the Shopping Centre and that therefore the Tenant shall conduct its business in the Leased Premises in a manner consistent with the best interests of the Shopping Centre as a whole.

(b) The Landlord shall have the right to cause the Tenant to discontinue and the Tenant shall thereupon forthwith discontinue the sale of any item, merchandise, commodity or the supply of any service or the carrying on of any business, any of which is either prohibited by this Section 7.04 or which the Landlord determines is not directly related to the business set out in Section 7.01. The Tenant will not allow or cause the use of any part of the Leased Premises for any of the following businesses or activities:

(i) the sale of second-hand goods or surplus articles, insurance salvage stock, fire sale stock or bankruptcy stock;

(ii) the sale of food and beverages, except as may be specifically permitted pursuant to Section 7.01 of this Lease;

(iii) an auction, bulk sale (other than a bulk sale made to an assignee or sublessee pursuant to a permitted assignment or subletting hereunder), liquidation sale, "going out of business" or bankruptcy sale, or warehouse sale (and the Tenant will not allow or cause any media advertising with respect to these types of events or sales);

(iv) any advertising or selling procedures which would, or any sale or business conduct or practice which would, because of the merchandising methods or quality of operation likely to be used, in either case in the Landlord's opinion, tend to lower the character of the Shopping Centre or harm or tend to harm the business or reputation of the Landlord or reflect unfavourably on the Shopping Centre, the Landlord or other tenants in the Shopping Centre or tend to confuse, deceive, mislead or be fraudulent to the public; or

(v) a mail order business or a department store, junior department store or variety store; or

(vi) a sale or business conduct which would infringe or violate any restrictive covenants or exclusive covenants in favour of any other tenant or occupant of the Shopping Centre or otherwise binding upon the Landlord or the Shopping Centre or which would, in the Landlord's opinion, interfere with or otherwise harm the business of any other tenant or occupant of the Shopping Centre.

7.05 Radius Clause

In recognition of the Landlord's investment in the Shopping Centre and in the Leased Premises and in recognition of the Landlord's right to collect percentage rent from tenants of the Shopping Centre, throughout the Term the Tenant shall not itself or through any Person under its control or in any way connected or affiliated with it, whether as partner, shareholder, lender, employee or otherwise, directly or indirectly allow or cause any business which is the same as or similar to or in competition with the Tenant's business in the Leased Premises to be engaged within any building or building complex, any portion of which is located within a radius of three

(3) kilometres from any point on the Shopping Centre, except for any such business which is in operation and disclosed to the Landlord as at the Commencement Date (but then so long as there is no increase in the size of such business or store).

If the Tenant is in breach the foregoing provisions of this Section 7.05, the Landlord, in addition to any other remedy available to it, is entitled to require that the gross receipts (calculated in the same manner as gross Receipts under this Lease) from and in respect of any such other business be included in the computation of gross Receipts hereunder, as though such gross receipts had actually been made from the Leased Premises and the Landlord has the same rights of inspection and audit with respect to the gross receipts of such other business as it has with respect to gross Receipts under this Lease. The Tenant advises that by entering into this Lease, it will not offend or be in breach of any restriction by which it is bound under any other lease or agreement to any other Person.

7.06 Hazardous Substances

(a) Each of the following words or expressions have for the purposes of this Section 7.06 and for the purposes of this Lease the meaning hereinafter set forth:

"**Environmental Laws**" shall mean all statutes, laws, by-laws, regulation, codes, orders, environmental penalties, tickets, notices, standards, guidelines, criteria, policies and directives, approvals, licenses and permits now or at any time hereafter in effect, made or issued by any Authority regulating, relating to or imposing liability or standard of conduct concerning the natural or human environment (including air, land, surface water, groundwater, waste, real and personal property, moveable and immoveable property, sustainability, building operations, recycling or resource consumption), public or occupational health and safety and the manufacture, importation, handling, use, reuse, recycling, transportation, storage, disposal, elimination and treatment of a substance, whether a Hazardous Substance or otherwise.

"**Hazardous Substances**" means (a) any substance which, when released into the Shopping Centre or any part thereof, or into the natural environment, is likely to cause, at any time, material harm or degradation to the Shopping Centre or any part thereof, or to the natural environment or material risk to human health, and includes, without limitation, any flammables, explosives, radioactive materials, asbestos, mold, corrosives, solvents, mercury and its compounds, dioxans and furans, chlordane (DDT), polychlorinated biphenyls (PCBs), chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), volatile organic compounds (VOCs), urea formaldehyde foam insulation, radon gas, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, pathological wastes, generic or process specific waste, pesticides, dangerous or potentially dangerous noxious or toxic substances or materials, petroleum and petroleum products, or (b) any substance or material declared to be hazardous or toxic under any Environmental Laws, or (c) both (a) and (b).

(b) The Tenant shall comply promptly, at its own expense, with and conform to the requirements of all Environmental Laws. Without limiting the generality of the foregoing, the Tenant shall not use or permit or suffer the use of the Leased Premises or any part thereof to generate, manufacture, refine, treat, transport, store, handle, dispose of, transfer, produce, process or contain any Hazardous Substances, except in strict compliance with all Environmental Laws. In the event the Tenant fails to comply with any such Environmental Laws, the Landlord may, without prejudice to any other rights available to it pursuant to this Lease or at law as a consequence thereof, but shall not be obligated to, do such things as necessary to effect such compliance, and the Tenant shall pay on demand as Additional Rent, all costs and expenses incurred by the Landlord in so doing together with an administration fee of fifteen percent (15%) of such costs and expenses.

(c) The Tenant shall forthwith notify the Landlord upon receipt of any order, directive, notice or other communication whatsoever received from any Authority relating to any Environmental Laws, which notice shall be accompanied by a copy of such order, directive, notice or other communication and the Tenant shall keep the Landlord advised on a weekly basis or more frequently as the Landlord may require of the Tenant's progress in complying with same.

(d) The Landlord shall be entitled at any time or times to inspect the Leased Premises and to conduct such other investigations as it deems necessary for the purpose of satisfying itself as to compliance by the Tenant with all Environmental Laws. Without limiting the generality of

the foregoing, the Landlord shall have the right to conduct such physical inspections of the Leased Premises and examination of documentation relating to the Leased Premises and the conduct of business thereon by the Tenant, as it may deem necessary and for such purpose the Tenant shall produce, at the offices of the Tenant, all of its relevant files, books, records, statements, plans and other written information in the Tenant's possession or control relating to the Leased Premises and the operations of the Tenant thereon, provided that all of such information shall be used by the Landlord solely for the purpose of ensuring compliance by the Tenant with the provisions of this Section 7.06.

(e) If at any time required by the Landlord, or by Authority pursuant to any Environmental Laws, to take all required remedial action in respect of any Hazardous Substances in, on, under or about the Leased Premises or emanating therefrom and to repair all damage occasioned to the Leased Premises and the Shopping Centre as a consequence thereof.

(f) Any Hazardous Substances on or about the Leased Premises shall remain the sole and exclusive property of the Tenant and shall not become the property of the Landlord, notwithstanding the degree of affixation to the Leased Premises. This affirmation of the Tenant's interest in the Hazardous Substances or the goods containing the Hazardous Substances shall not, however, prohibit the Landlord from dealing with such Hazardous Substances as otherwise provided for in this Section 7.06.

(g) The Tenant will indemnify the Released Persons and save them harmless from and against any and all claims, actions, damages, liability and expenses whatsoever including, without limitation, costs of professional advisors and consultants and experts in respect of investigation, remedial action and clean-up costs and expenses, arising in any manner whatsoever out of:

- (i) any breach by the Tenant of any provision of this Section 7.06; and
- (ii) any Hazardous Substances which are at any time generated, manufactured, refined, treated, transported, stored, handled, disposed of, transferred, produced, processed or contained in, on, under or about the Leased Premises or emanating therefrom.

ARTICLE VIII FIXTURES, ALTERATIONS AND REPAIRS AND LANDLORD'S CONTROL OF SHOPPING CENTRE

8.01 Installations by the Tenant

(a) All equipment, fixtures and improvements installed by the Tenant in the Leased Premises shall be new or completely reconditioned. The Tenant shall not make any alterations, decorations, additions or improvements (individually and collectively the "Improvements") or install or cause to be installed any trade fixtures, exterior signs, floor covering, interior or exterior lighting, plumbing fixtures, shades or awnings or make any changes to the store front without first obtaining the Landlord's written approval and consent. The Tenant shall present to the Landlord plans and specifications in form, content and such detail as the Landlord may reasonably require for such work at the time approval is sought and the Tenant shall be responsible to pay the Landlord's fee in reviewing such plans and specifications upon the Tenant's receipt of an invoice. The Tenant covenants that any work that may be done in respect of the Leased Premises by or on behalf of the Tenant shall be done in such a manner as not to conflict or interfere with any work being done or about to be done by the Landlord in or about the Shopping Centre, whether such conflict or interference shall arise in relation to labor unions or otherwise and the Tenant shall obtain all requisite permits, licenses and inspections in respect of any such work done by or on the Tenant's behalf. Notwithstanding anything herein contained, the Tenant shall not make any Improvements and shall not install or cause to be installed any trade fixtures, exterior signs, floor covering, interior or exterior lighting, plumbing fixtures, shades or awnings or make any changes to the storefront that are of a structural nature or that would lessen the value or Rentable Area of the Leased Premises or the Shopping Centre or that would interfere with the usage of the Common Areas.

(b) All Improvements made by the Tenant or made by the Landlord on the Tenant's behalf (other than the Tenant's trade fixtures) shall immediately become the property of the

Landlord upon affixation or installation, without compensation therefor to the Tenant, but the Landlord is under no obligation to repair, maintain or insure the Improvements. Subject to Section 8.02 of this Lease, the Tenant will not remove such Improvements from the Leased Premises during or at the expiration or earlier termination of the Term except that at the Tenant's sole cost (i) the Tenant will be permitted during the Term, so long as the Tenant is not in default under this Lease and such removal is made in the ordinary course of the Tenant's business or in the course of permitted renovation, reconstruction or alteration of the Leased Premises, to remove its trade fixtures where they have become excess for the Tenant's purposes or where the Tenant is substituting new and similar trade fixtures, and (ii) the Tenant shall, at the expiry or earlier termination of this Lease, remove from the Leased Premises its trade fixtures, inventory and other personal property and those of its leasehold improvements that the Landlord requires to be removed.

(c) If the Tenant does not remove its trade fixtures, inventory or other personal property from the Leased Premises at the expiration or earlier termination of the Term, the Landlord shall have no obligation in respect of same and may, at the expense of the Tenant and without payment of any compensation to the Tenant, sell or destroy them (or have them removed or stored or disposed of in any other manner whatsoever as may be determined by the Landlord in its sole discretion) or, at the Landlord's option, may elect to become the absolute owner of such trade fixtures, inventory or other personal property and deal with same in such manner as it determines.

(d) The Tenant will effect the installation or removal of all Improvements only at times designated by the Landlord and will promptly make good any damage caused to the Leased Premises or the Shopping Centre by such installation or removal.

(c) For greater certainty, the Tenant's trade fixtures shall not include any

- (i) heating, ventilating and air-conditioning system and equipment which serve the Leased Premises;
- (ii) floor coverings affixed to the floor of the Leased Premises;
- (iii) light fixtures;
- (iv) the storefront and doors; and
- (v) anything that would not normally be considered a trade fixture,

all of which are deemed to be leasehold improvements.

8.02 Maintenance and Repair by the Tenant

The Tenant will at all times keep the Leased Premises (including exterior entrances and all glass and show windows) and all partitions, doors, fixtures, equipment and appurtenances thereof (including lighting, heating and plumbing fixtures, and the electrical and mechanical systems) in good order, condition and repair (including periodic painting or redecorating and preventative maintenance as determined by the Landlord and including such repairs or replacements as are required to keep the Leased Premises in good repair and condition). All aforesaid maintenance, repairs, restorations and replacements shall be in quality and class equal to the original work or installations.

8.03 Signs, Awnings, Canopies

Any sign, lettering or design in the Leased Premises that is visible from the exterior of the Leased Premises shall be subject to approval by the Landlord and shall conform to the uniform pattern of identification signs for tenants in the Shopping Centre as prescribed by the Landlord. The Tenant shall not inscribe or place any sign, lettering, awning, canopy, advertising or design on the exterior or outside of the Leased Premises without the Landlord's prior written approval.

All of the Tenant's signs shall be maintained and repaired by the Tenant at its expense so that they are kept in good condition and repair at all times.

8.04 Removal and Restoration by the Tenant of the Leased Premises

Upon expiry or earlier termination of this Lease, the Tenant shall:

- (a) leave the Leased Premises in good repair and in the condition it was in on delivery of possession, reasonable wear and tear excepted,
- (b) surrender all keys for the Leased Premises to the Landlord at the place then fixed for the payment of Rent and inform the Landlord of all combinations on locks, safes and vaults, if any, in the Leased Premises,
- (c) remove, in accordance with Section 8.01(b) of this Lease, its trade fixtures, inventory and personal property and those leasehold improvements that the Landlord requires to be removed from the Leased Premises and at its expense repair all damage caused by the installation or removal of such items.

The Tenant's obligations to observe or perform this covenant shall survive the expiration or earlier termination of the Term of this Lease.

8.05 Tenant to Discharge all Liens

The Tenant will ensure that no construction or other lien or charge, or notice thereof, is registered or filed against the Shopping Centre or any part of it or any of the leasehold improvements in the Leased Premises by any Person claiming by, through, under or against the Tenant or its contractors or subcontractors. If such a lien or charge or notice thereof is registered or filed and the Tenant fails to discharge it within five (5) days after written notice from the Landlord, the Landlord may discharge it by paying the amount claimed to be due into court or directly to the claimant and the Tenant will pay to the Landlord on demand as Additional Rent all costs (including legal fees) incurred by the Landlord in connection therewith, together with an administration fee of fifteen percent (15%) thereon.

8.06 Rules and Regulations

The Tenant will comply with the Rules and Regulations. Landlord reserves the right from time to time to amend or supplement the Rules and Regulations. Notice of such amendments and supplements, if any, shall be given to the Tenant, and the Tenant agrees thereupon to comply with and observe all such amendments and supplements, provided that no Rule or Regulation shall contradict any provision of this Lease. The Released Persons shall not be responsible to the Tenant for non-observance or violation of any of the provisions of such Rules and Regulations by any other tenant of the Shopping Centre or of the terms of any other lease of premises in the Shopping Centre and the Landlord shall be under no obligation to enforce any such provisions. All Rules and Regulations shall be enforced against the Tenant in a non-discriminatory manner.

8.07 Maintenance and Repair by the Landlord

The Landlord shall, subject to the other provisions of this Lease, maintain, repair and replace (or cause to be maintained, repaired and replaced) the Common Areas and the cost (except for the cost of repairing and replacing inherent structural defects or weaknesses) will be included in Operating Costs. If, however, the Landlord is required to maintain, repair or replace the Common Areas by reason of the act, fault, default or negligence of the Tenant, its agents, contractors, employees, servants, licensees, subtenants, concessionaires, invitees or others for whom the Tenant is in law responsible, the Tenant shall pay on demand as Additional Rent, the Landlord's costs for making such maintenance, repairs or replacements, together with an administration fee of fifteen percent (15%) of such costs.

8.08 Operation and Control of Shopping Centre by Landlord

During the Term, the Landlord shall operate the Shopping Centre in such manner as the Landlord determines from time to time and in a reputable manner as would a prudent landlord of a similar shopping centre having regard to size, age and location.


The Shopping Centre and the Common Areas are at all times subject to the exclusive control and management of the Landlord. Without limiting the generality of the foregoing, the

Landlord has the right in its control, management and operation of the Shopping Centre and by the establishment of rules and regulations and general policies with respect to the operation of the Shopping Centre or any part thereof at all times throughout the Term to construct, maintain and operate lighting facilities and heating, ventilating and air conditioning systems; provide supervision and policing services for the Shopping Centre; close all or any portion of the Shopping Centre to such extent as may in the opinion of the Landlord's counsel be legally sufficient to prevent a dedication thereof or the accrual of any rights to any third party or the public; grant, modify and terminate easements or other agreements pertaining to the use and maintenance of all or any part of the Shopping Centre; obstruct or close off all or any part of the Shopping Centre for the purpose of maintenance, repair or construction; employ all personnel, including supervisory personnel and managers necessary for the operation, maintenance and control of the Shopping Centre; use any part of the Common Areas from time to time for merchandising, display, decorations, entertainment and structures designed for retail selling or special features or promotional activities; designate the areas and entrances and the times in, through and at which loading and unloading of goods shall be carried out; control, supervise and generally regulate the delivery or shipping of merchandise, supplies and fixtures to and from the Leased Premises and other portions of the Shopping Centre; designate and specify the kind of container to be used for garbage and refuse and the manner and the times and places at which same is to be placed for collection and if the Landlord for the more efficient and proper operation of the Shopping Centre provides or designates a commercial service for the pickup and disposal of refuse and garbage instead of or in addition to the service provided by the municipality, the Tenant shall use same and shall pay an amount equitably determined by the Landlord in accordance with practices relevant to multi-use commercial developments and on a basis consistent with the benefits derived by the tenants of each particular component of the Shopping Centre having regard to the nature of the particular costs and expenses being allocated; designate areas where the Tenant and its employees may park in the Shopping Centre and impose reasonable rules and regulations to enforce such limits on parking; from time to time change the area, level, location, arrangement or use of the Shopping Centre or any part thereof; construct other buildings or improvements in the Shopping Centre and make changes to any part of the Shopping Centre; and do and perform such other acts in and to the Shopping Centre as in the use of good business judgment the Landlord determines to be advisable for the more efficient and proper operation of the Shopping Centre.

Notwithstanding anything to the contrary, if as a result of the exercise by the Landlord of any of its rights as set out in this Section 8.08, the Common Areas are diminished or altered in any manner whatsoever, the Landlord is not subject to any liability nor is the Tenant entitled to any compensation or diminution or abatement of Rent nor is any alteration or diminution of the Common Areas deemed constructive or actual eviction, or a breach of any covenant for quiet enjoyment contained in this Lease.

8.09 Right to Relocate

The sole purpose of the plan attached hereto as Schedule "B" is to show the approximate location of the Leased Premises. The Landlord shall have the right from time to time upon not less than sixty (60) days prior written notice to the Tenant to relocate the Leased Premises to other premises within the Shopping Centre if, in the Landlord's opinion, it would be for the betterment of the Shopping Centre having regard to the establishment of new tenancies in the Shopping Centre or having regard to the expansion or renovation of the Shopping Centre. If the Landlord exercises such right, the Landlord will pay for the actual and reasonable direct costs of the relocation that are substantiated to the Landlord on the basis of invoices with proper backup, including reimbursing the Tenant for its fixtures and improvements in the Leased Premises (excluding design, overhead, interest and other soft costs) on the basis of audited financial statements showing the unamortized value at the time of relocation on a straight line basis. However, in no event will the Tenant be reimbursed or compensated on account of goodwill, loss of profits, loss of business, overhead or overtime charges and provided further that the total of all construction allowances, inducements and other payments (if any) made by the Landlord to the Tenant in respect of the original Leased Premises will be deducted from the amount owing by the Landlord to the Tenant hereunder. The Tenant agrees to minimize costs by reusing, where feasible, all fixtures and trade fixtures in the relocated premises. All terms and conditions of the Lease shall apply to the relocated premises for the remainder of the Term.



8.10 Demolition

Notwithstanding anything contained in this Lease, the Landlord in its sole discretion may terminate this Lease at any time if it is the Landlord's intention to facilitate any reconstruction or redevelopment or change in use of the Shopping Centre, or to facilitate any demolition of all or a substantial part of the Shopping Centre. The Landlord will give the Tenant not less than one hundred and eighty (180) days prior written notice of such termination. The within right to terminate is independent of the Landlord's right to relocate the Tenant under this Lease. In exercising its termination right referred to herein, the Landlord agrees to act in a bona fide manner.

8.11 Redevelopment

If the Landlord desires to renovate, alter, demolish, reconstruct and/or redevelop all or any part of the Shopping Centre or to change the use of the Shopping Centre (together the "Redevelopment"), the Landlord may: (a) if, in its sole and absolute discretion, it determines that it requires vacant possession of the Leased Premises in connection with such Redevelopment, elect to terminate this Lease by giving not less than ninety (90) days' notice in writing to the Tenant; or (b) if it does not elect to terminate this Lease, require the Tenant to undertake an upgrade of the Leased Premises, at its sole expense, which upgrade may, in the sole and absolute discretion of the Landlord, include, without limitation, the renovation of the Tenant's storefront and signage, and painting and upgrading the interior fixtures and leasehold improvements, all in accordance with the Landlord's then current standard design criteria for refurbishment. In the event the Landlord elects to terminate this Lease, the Tenant shall deliver up vacant possession of the Leased Premises in accordance with the provisions of this Lease and will execute all documents and other assurances as are reasonably required to give effect to the provisions of this Section 8.11. Upon the date of termination, any necessary adjustments in Rent shall be made between the Landlord and the Tenant.

8.12 Landlord's Right to Enter Leased Premises

(a) It is not a re-entry or a breach of quiet enjoyment if the Landlord or its authorized representatives enter the Leased Premises at reasonable times to:

- (i) examine them;
- (ii) make permitted or required repairs, alterations, improvements or additions to the Leased Premises (including the pipes, conduits, wiring, ducts, columns and other installations in the Leased Premises) or the Shopping Centre or adjacent property; or
- (iii) excavate land adjacent or subjacent to the Leased Premises;

in each case (to the extent reasonably possible in the circumstances) without unreasonably interfering with the Tenant's business operations in the Leased Premises, and the Landlord may take material into and on the Leased Premises for those purposes. Rent will not abate or be reduced while the repairs, alterations, improvements or additions are being made. The Landlord will take reasonable steps to minimize any interruption of business resulting from any entry.

(b) During the six (6) months prior to the expiration of the Term of this Lease, the Landlord may exhibit the Leased Premises to prospective tenants and place upon the Leased Premises the usual notices "For Rent" which notices the Tenant shall permit to remain where placed without molestation. The Landlord may at any time during the Term of this Lease, exhibit the Leased Premises to prospective purchasers or Mortgagees and place upon the Leased Premises the usual notices "For Sale" which notice the Tenant shall permit to remain where placed without molestation.

(c) If the Tenant shall not be personally present to open and permit an entry into the Leased Premises, at any time, when for any reason an entry therein shall be necessary or permissible, the Landlord or the Landlord's agents may enter the same by a master key, or may forcibly enter the same, without rendering the Landlord or such agents liable therefor, and without in any manner affecting the obligations and covenants of this Lease.

(d) Nothing in this Section contained, however, shall be deemed or construed to impose upon the Landlord any obligation, responsibility or liability whatsoever for the care, maintenance or repair of the Shopping Centre or any part thereof, except as otherwise in this Lease specifically provided.

8.13 Depiction

(a) The depiction of the Shopping Centre shown on Schedule "B", including, without limitation, the building in which the Leased Premises are located, does not constitute a representation, warranty or covenant of any kind whatsoever by the Landlord and was not relied upon by the Tenant. The Tenant agrees that the Landlord reserves the right to make changes to the area, level, location, arrangement or use of the Shopping Centre, to expand, reduce or alter any part thereof, including the Common Areas, and to construct buildings, structures, installations, systems, utilities, services, equipment, improvements and facilities or any of them in, under, above, adjoining or which serve the Shopping Centre or any part thereof, including the Common Areas, construct additional buildings or facilities adjoining or near the Shopping Centre or any changes to the layout of the Shopping Centre which the Landlord may deem necessary or be required to make by any Authority in order to obtain site plan approval, provided that in any event, there shall be no reduction in the number of parking spaces available in the Shopping Centre below municipal requirements.

(b) Despite anything to the contrary contained in this Lease, the Tenant acknowledges and agrees that the Landlord may acquire from time to time adjoining lands, which lands, once acquired, may in whole or in part(s) form part of the Shopping Centre which may be developed in whole or in part(s) as either part of the leasable area of the Shopping Centre or part of the Common Areas, or a combination thereof as determined by the Landlord. The Tenant hereby consents to, and shall not oppose any application made by or on behalf of the Landlord with respect to any actions, steps, decisions, proceedings, permits, licenses, zoning, rezoning, variances or other governmental approvals sought by or on behalf of the Landlord from time to time with respect to or in connection with such lands or the Shopping Centre.

(c) Without limiting the generality of above paragraphs, the Tenant further acknowledges that:

(i) the portions of the Shopping Centre depicted on Schedule "B" attached hereto may or may not be built or if built may be built in part only or in any combination or in phases, and may not be built as depicted or as the configuration shown on the site plan depicted in Schedule "B"; and

(ii) as a result of any construction, the Tenant acknowledges that, it shall not be entitled to any compensation, or reduction or abatement of Rent in connection therewith, provided that notwithstanding the foregoing, the Landlord agrees to use reasonable commercial efforts to minimize interruptions to vehicular and pedestrian traffic and interferences with the ordinary and lawful enjoyment of the Leased Premises.

ARTICLE IX INSURANCE AND INDEMNITY

9.01 Tenant's Insurance

(a) The Tenant shall throughout the Term, at its own cost and expense, take out and keep in full force and effect and in the name of the Tenant, with the Landlord, the Owners, the Management Company and the Mortgagee as additional named insureds, as their respective interests may appear, the following insurance:

(i) all-risks (including earthquake, flood and earthquake) property insurance in an amount equal to 100% of the full replacement cost, insuring every type of property in the Shopping Centre that the Tenant owns or for which the Tenant is legally liable or which has been installed by or on behalf of the Tenant (including, without limitation, leasehold improvements, signs and plate glass) and the Tenant's inventory, furniture, fixtures and movable equipment;

(ii) if applicable, broad form boiler and machinery insurance on a blanket repair and replacement basis with limits for each accident in the amount of not less than the

full replacement cost of all leasehold improvements and of all boilers, pressure vessels, heating, ventilating and air-conditioning equipment and miscellaneous electrical apparatus owned or operated by the Tenant or by others (other than the Landlord) on behalf of the Tenant in the Leased Premises or relating to or serving the Leased Premises;

(iii) business interruption insurance with at least twelve (12) months indemnity in an amount as will reimburse the Tenant for direct or indirect loss of earnings attributable to all perils insured against in Section 9.01(a)(i) and 9.01(a)(ii) and other perils commonly insured against by prudent tenants, or attributable to prevention of access to the Leased Premises or to the Shopping Centre as a result of those perils;

(iv) commercial general liability and property damage insurance including personal injury liability, broad form tenant's legal liability coverage for the actual cash value of the Leased Premises plus 12 months loss of their use, contractual liability, non-owned automobile liability, employer's liability and owner's and contractor's protective insurance coverage, with respect to the Leased Premises and the Tenant's use of the Common Areas, with coverage including the activities and operations conducted by the Tenant and by any other Person on the Leased Premises, and by the Tenant and any other Person performing work in the Leased Premises or elsewhere in the Shopping Centre on behalf of the Tenant, and those for whom the Tenant is in law responsible. Such policies shall (1) be written on a comprehensive basis with inclusive limits of not less than Five Million Dollars (\$5,000,000.00) per occurrence for bodily injury for any one or more Persons or property damage or such higher limits as the Landlord or the Mortgagee may reasonably require from time to time; and (2) contain a severability of interests clause and cross liability clauses;

(v) standard owners form automobile insurance providing third party liability insurance with one million dollars (\$1,000,000.00) inclusive limits, and accident benefits insurance, covering all licensed vehicles owned or operated by or on behalf of the Tenant; and

(vi) any other form of insurance as the Tenant or the Landlord or the Mortgagee may reasonably require from time to time in form, in amounts and for insurance risks against which a prudent tenant would insure.

(b) The policies referred to in Sections 9.01(a)(i) to and including 9.01(a)(iv) above shall (1) contain a waiver of any subrogation rights which the Tenant's insurers may have against the Landlord, the Owners, the Management Company and the Mortgagee, their officers, shareholders, directors, employees, servants, contractors and agents and those for whom the Released Persons are responsible at law, whether any such damage is caused by their act, fault, default or negligence and (2) contain the Mortgagee's standard mortgage clause, if required by the Mortgagee, and may have reasonable deductibles of up to three percent (3%) of the amount insured.

(c) All policies shall (i) be taken out with insurers and in a form acceptable to the Landlord, acting reasonably, (ii) be non-contributing with and shall apply only as primary and not excess to any other insurance available to the Landlord, the Owners, the Management Company and the Mortgagee, (iii) not be invalidated with respect to the interests of all and any of the Released Persons by reason of any breach or violation of warranties, representations, declarations or conditions contained in the policy, and (iv) contain an undertaking by the insurers to notify the Landlord and the Mortgagee in writing not less than thirty (30) days prior to any material change, cancellation or termination thereof. The Tenant shall provide to the Landlord duly executed certificates of insurance from its insurers on the Landlord's standard form evidencing that the required insurance under this Section 9.01 is in force prior to its possession of the Leased Premises for any reason and thereafter upon renewal of such insurance. No review or approval of any insurance certificate by the Landlord derogates from or diminishes the Landlord's rights under this Lease.

(d) The Tenant agrees that if the Tenant fails to take out or keep in force any such insurance referred to in Section 9.01(a) on the terms set out in Section 9.01(b) and 9.01(c) and should the Tenant not rectify the situation immediately after written notice by the Landlord to the Tenant, the Landlord has the right without assuming any obligation in connection therewith to effect such insurance at the sole cost of the Tenant and all outlays by the Landlord together with a fifteen percent (15%) overhead fee thereon shall be immediately paid by the Tenant to the

Landlord as Additional Rent without prejudice to any other rights and remedies of the Landlord under this Lease.

9.02 Increase in Insurance Premium and Cancellation of Insurance

The Tenant will not allow or cause anything to occur in the Leased Premises or conduct or allow to be conducted any business in the Leased Premises or install or permit any improvement in or make any alteration of the Leased Premises which results in an increase of premium for any insurance on the Shopping Centre or which results in the cancellation or threatened cancellation or the reduction of coverage or non renewal or threatened reduction of coverage or non renewal of any insurance policy on the Shopping Centre. If the Tenant is in default under this Section 9.02 the Tenant shall pay any resulting additional premium on any insurance policies taken out or maintained by the Landlord, including any additional premium on any rental income insurance policy that may be carried by the Landlord and shall forthwith remedy or rectify the condition giving rise to the default failing which the Landlord shall have the right, after providing the Tenant with twenty-four (24) hours prior written notice during which time the Tenant has failed to remedy the condition, to (a) enter the Leased Premises and rectify the situation at the Tenant's expense (together with a fifteen percent (15%) Admin fee charge thereon) without liability to the Tenant for any loss or damage occasioned by such entry and rectification, or (b) hold the Tenant liable for any damage or loss resulting from such breach, or (iii) exercise its rights and remedies under Article XIII of this Lease. In determining whether increased premiums are attributable to the Tenant as described above, a schedule issued by the organization making the insurance rate on the Shopping Centre showing the various components of such rate shall be conclusive evidence of the items that make up the rate. Bills for such additional premiums shall be rendered by the Landlord to the Tenant at such times as the Landlord may elect, and shall be due from and payable by the Tenant when rendered, and the amount thereof shall be deemed to be and be paid as Additional Rent.

9.03 Landlord's Insurance

The Landlord shall at all times throughout the Term carry: (a) all risks insurance on the Shopping Centre (excluding excavations) and the machinery, boilers and equipment contained therein and owned by the Landlord; (b) public liability and property damage insurance with respect to the Landlord's operations in the Shopping Centre, and (c) such other coverage or increases in the amount of coverage as any Mortgagee may require from time to time or as the Landlord may consider advisable from time to time (including, but not limited to, rental income insurance), in reasonable amounts and with those reasonable deductibles that a prudent owner of a reasonably similar shopping centre would maintain, having regard to size, age and location.

Notwithstanding the Landlord's covenant herein and the Tenant's contribution to the cost of the Landlord's insurance premiums: (i) the Tenant is not relieved of any liability arising from or contributed to by the act, fault, default, negligence or misconduct of the Tenant, its agents, contractors, employees, servants, licensees, subtenants, concessionaires, invitees or those for whom the Tenant is in law responsible; (ii) no insurable interest or other benefit (including an implied waiver of subrogation from the Landlord's insurers) is conferred upon the Tenant under the Landlord's insurance policies; and (iii) the Tenant has no right to receive proceeds from the Landlord's insurance policies.

9.04 Loss or Damage

The Released Persons shall not be liable for any death or injury arising from or out of any occurrence in, upon, at or relating to the Shopping Centre or for any damage to or loss of, or loss of use of, any property of the Tenant or of others wherever located in the Shopping Centre (including the Leased Premises) from any cause whatsoever and whether or not it results from (a) any act, omission, negligence or misconduct of such Released Persons, (b) the operation, faulty operation, interruption or breakdown of any of the base building systems or other services to be provided by the Landlord under this Lease, (c) any Hazardous Substance existing in or having been introduced into any part of the Shopping Centre, or (d) any act, omission, negligence or misconduct of any tenant or occupant of the Shopping Centre or on property adjacent to the Shopping Centre, or of the public or any Person in or on the Shopping Centre. Without limiting the generality of the foregoing, the Released Persons shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain, flood, snow or leaks from any part of the Leased Premises or from the

pipes, appliances, plumbing works, roof or subsurface of any floor or ceiling or from the street or any other place or by dampness or by any other cause whatsoever. The Released Persons shall not be liable for any such damage caused by other tenants or persons in the Shopping Centre or by occupants of adjacent property thereto, or the public, or caused by construction or by any private, public or quasi-public work. All property of the Tenant kept or stored on the Leased Premises shall be so kept or stored at the risk of the Tenant only and the Tenant shall indemnify the Released Persons and save them harmless from any claims, actions, damages, liability and expenses whatsoever arising out of any damages to the same, including, without limitation, any subrogation claims by the Tenant's insurers. In no event shall the Released Persons be liable for any injury to the Tenant or others or for any injury or damage to the Leased Premises or to any property of the Tenant or others on or about the Leased Premises caused by an interruption, suspension or failure in the supply of any utilities to the Leased Premises.

9.05 Indemnification of the Landlord

The Tenant will indemnify the Released Persons and save them harmless from and against any and all loss (including loss of Rent payable by the Tenant under this Lease), claims, actions, damages, liability and expenses whatsoever in connection with loss of life, personal injury, damage to property or any other loss or injury arising from this Lease or any occurrence in, upon or at the Leased Premises, or from the occupancy or use by the Tenant of the Leased Premises or any other part of the Shopping Centre, or occasioned wholly or in part by the act or omission of the Tenant or its agents, contractors, employees, servants, licensees, subtenants, concessionaires, invitees and those for whom the Tenant is in law responsible. If a Released Person, without fault on its part, is made a party to any litigation commenced by or against the Tenant, the Tenant shall protect and hold such Released Person harmless from and against and shall pay all costs, expenses and solicitors' and counsel fees on a full indemnity basis incurred or paid by the Released Person in connection with, such litigation.

ARTICLE X DAMAGE, DESTRUCTION AND EXPROPRIATION

10.01 Destruction of Leased Premises

(a) If the Leased Premises are destroyed or damaged by any cause whatsoever, then subject to Section 10.01(b), 10.02(a) and 10.02(c) the following provisions apply:

- (i) if the Leased Premises are rendered partly untenable, then subject to Section 10.01(b), 10.02(a) and 10.02(c) the Landlord will complete the Landlord's Restoration Work and Minimum Rent (but not Additional Rent) will abate proportionately to the part of the Leased Premises rendered untenable from the date of the damage or destruction until the Landlord has substantially completed the Landlord's Restoration Work or completed the Landlord's Restoration Work to the extent that the Tenant's Restoration Work herein can be performed by the Tenant in conjunction with the Landlord's Restoration Work; "Landlord's Restoration Work" in this Article X means the reconstruction or repair of the floor (excluding flooring), exterior walls and roof of the Leased Premises and the "Tenant's Restoration Work" in this Article X means all work other than the Landlord's Restoration Work required to fully restore the Leased Premises including, without limitation, the Improvements;
- (ii) if the Leased Premises are rendered wholly untenable, then subject to Section 10.01(b), 10.02(a) and 10.02(c) the Landlord will complete the Landlord's Restoration Work and Minimum Rent (but not Additional Rent) will abate completely from the date of the damage or destruction until the Landlord's Restoration Work is substantially completed or completed to the extent that the Tenant's Restoration Work can be performed by the Tenant in conjunction with the Landlord's Restoration Work; and
- (iii) if the Leased Premises are not rendered untenable in whole or in part, there will be no abatement of Rent and subject to Section 10.01(b),

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10.02(a) and 10.02(c) the Landlord will complete the Landlord's Restoration Work.

When the Landlord notifies the Tenant that the Landlord's Restoration Work has been substantially completed, the Tenant will complete the Tenant's Restoration Work and will reopen the Leased Premises to the public for business fully fixtured, on the earliest date possible but in any case within thirty (30) days after the date on which the Landlord's Restoration Work will be substantially completed. The Tenant acknowledges that the Landlord is not required to rebuild or restore the Leased Premises to the same condition as existed before the damage or destruction.

(b) Notwithstanding anything contained in Section 10.02(a), if the Leased Premises are damaged or destroyed by any cause whatsoever and if, in the opinion of the Landlord reasonably arrived at, the Leased Premises cannot be substantially repaired under Applicable Laws within one hundred and eighty (180) days of the happening of the damage or destruction (employing normal construction methods without overtime or other premiums), the Landlord, may at its option instead of completing the Landlord's Restoration Work in accordance with Section 10.01(a), terminate this Lease on written notice to the Tenant given within ninety (90) days after such damage or destruction with termination to be effective on the thirtieth (30th) day after the notice is given. If this Lease is so terminated by the Landlord, the Tenant shall deliver up vacant possession of the Leased Premises to the Landlord on the effective date of termination and Minimum Rent and Additional Rent shall be apportioned and paid to such effective date of such termination unless the Leased Premises have been destroyed or damaged in which case Minimum Rent will abate as provided in Section 10.01(a) above.

10.02 Destruction of Shopping Centre

(a) Despite anything else in this Lease, if (i) fifty percent (50%) or more of the Rentable Area of the Shopping Centre, or (ii) fifty percent (50%) or more of the Common Areas, or (iii) any department store or supermarket or individual leasable premises with a Rentable Area of more than 15,000 square feet: is damaged or destroyed and cannot, in the opinion of the Landlord reasonably arrived at, be substantially repaired under Applicable Laws within 180 days from the date of such damage (employing normal construction methods without overtime or other premiums), then whether or not the Leased Premises are damaged or destroyed, the Landlord may, within ninety (90) days following the occurrence, terminate this Lease by notice in writing to the Tenant with termination to be effective on the thirtieth (30th) day after the notice is given. If the Landlord terminates this Lease in accordance with this Section 10.02(a), the Tenant shall deliver up vacant possession of the Leased Premises to the Landlord on the effective date of termination and Minimum Rent will be apportioned to the effective date of the termination, unless the Leased Premises have been destroyed or damaged in which case Minimum Rent will abate as provided in Section 10.01(a) above.

(b) If the Landlord does not elect to terminate this Lease in accordance with Section 10.02(a), the Landlord will reconstruct or repair, if necessary, that part of the Shopping Centre in which the Leased Premises are located and any other portion of the Shopping Centre which the Landlord in its sole discretion elects to reconstruct or repair, but only to the extent of the Landlord's responsibilities under the leases for such other portions of the Shopping Centre. If the Landlord reconstructs or rebuilds the Shopping Centre or any part of it, the Landlord may use plans and specifications and working drawings other than those used in the original construction of the Shopping Centre or any part of it.

(c) Notwithstanding anything contained in this Lease to the contrary, and without limiting the Landlord's rights or remedies hereunder, if any damage or destruction occurs to the Shopping Centre or any part thereof by reason of any cause in respect of which there are not proceeds available to the Landlord, or if the proceeds of insurance are insufficient to pay the Landlord for the cost of rebuilding or making fit the Shopping Centre or any part thereof (including the Leased Premises) in accordance with this Lease or if any Mortgagee or other Person entitled to the proceeds of insurance does not consent to the payment to the Landlord of such proceeds for such purpose, then the Landlord may terminate this Lease on sixty (60) days written notice to the Tenant without indemnity or penalty payable by, or any other recourse against, the Landlord. In such event, all Rent shall be adjusted as of, and the Tenant shall vacate and surrender the Leased Premises to the Landlord in accordance with this Lease on such date of termination.

10.03 Abatement of Rent

Notwithstanding anything hereinbefore contained, all abatements of Rent set out in this Article X shall be limited to an amount equal to the amount which the Landlord collects under any rental income insurance.

10.04 Expropriation Awards

The Landlord and the Tenant will co-operate with each other if there is an expropriation of all or part of the Leased Premises or the Shopping Centre, so that each may receive the maximum award that it is entitled to at law. To the extent, however, that a part of the Shopping Centre, other than the Leased Premises, is expropriated, the full proceeds that are paid or awarded as a result, will belong solely to the Landlord, and the Tenant will assign to the Landlord any rights that it may have or acquire in respect of the proceeds or awards and will execute the documents that the Landlord reasonably requires in order to give effect to this intention.

ARTICLE XI STATUS STATEMENT, SUBORDINATION AND ATTORNMENT

11.01 Status Statement

Within five (5) days after request, the Tenant will sign and deliver to the Landlord or anyone with or proposing to take an interest in all or part of the Shopping Centre, a status statement or certificate stating that this Lease is in full force and effect, setting out any modifications to this Lease and confirming as correct specific information pertaining to the tenancy such as, by way of example, the commencement and expiry dates of this Lease, the date to which Rent has been paid, the amount of any prepaid Rent or deposits held by the Landlord, whether there is any existing default and the particulars, and any other information reasonably required by the party requesting it.

11.02 Subordination and Attornment

This Lease is subordinate to every existing and future ground lease, mortgage, charge, trust deed, financing, refinancing or collateral financing (herein called "Mortgage") against the Leased Premises or the Shopping Centre and to the instruments of, as well as the charge or lien resulting from any of them and any renewals or extensions of or advances under them. The Tenant shall:

(a) attorn to a holder of a Mortgage ("Mortgagee") which takes proceedings under its Mortgage in respect of the Shopping Centre or to any purchaser, transferee or disponee of the Shopping Centre or any ownership or equity interest in the Shopping Centre and becomes bound to it as its tenant of the Leased Premises for the then unexpired residue of the Term and upon the terms and conditions herein contained (subject always to the respective priorities, as between themselves, of Mortgagees who from time to time request such attornment); and

(b) consent to and be bound by any postponement by a Mortgagee of its Mortgage to this Lease,

and such attornment, consent and agreement to be bound shall be self-operative and the parties entitled to the benefit thereof shall be entitled to rely upon and enforce such attornment, consent and agreement to be bound, notwithstanding that they are not parties hereto.

The form and content of any document confirming the above provided for in this Section 11.02 will be that required by the Landlord or the holder of the Mortgage, or the purchaser, transferee or disponee of the Shopping Centre in each case and each such document will be delivered by the Tenant to the requesting party within ten (10) days after request.

11.03 Power of Attorney

The Tenant hereby irrevocably appoints the Landlord as the attorney for the Tenant with full power and authority to execute and deliver in the name of the Tenant any instruments or certificates required to carry out the intent of Sections 11.01 and 11.02 which the Tenant shall

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have failed to sign and deliver within five (5) days after the date of a written request by the Landlord to execute such instruments.

11.04 Sale by Landlord

If the Landlord transfers or disposes of all or any part of the Shopping Centre or the Landlord's interest under this Lease, then to the extent that the transferee or donee agrees with the Landlord to assume its obligations under this Lease, the Landlord will be released from them, except for existing defaults as of the date of the transfer or disposition.

11.05 Financial Information

The Tenant shall, upon request, provide the Landlord with such information as to the Tenant's or any Indemnifier's financial standing and corporate organization as the Landlord or Mortgagee may require from time to time.

ARTICLE XII TRANSFERS BY TENANT

12.01 Transfer Defined

For the purposes of this Article XII and this Lease, "Transfer" means,

- (i) an assignment, sale, conveyance, sublease, or other disposition of this Lease or the Leased Premises, or any part of them or any interest in this Lease (whether by operation of law or otherwise), or in a partnership that is a Tenant under this Lease,
- (ii) a mortgage, charge or debenture (floating or otherwise) or other encumbrance of this Lease or the Leased Premises or any part of them, or of any interest in this Lease or of a partnership, or partnership interest, where the partnership is a Tenant under this Lease,
- (iii) a parting with, sharing of possession of, or licensing of all or any part of the Leased Premises, and
- (iv) a transfer or issue by sale, assignment, bequest, inheritance, operation of law or other disposition, or by subscription of all or part of the corporate shares of the Tenant or an "affiliate" (as that term is defined on the date of this Lease under the Canada Business Corporations Act) of the Tenant which results in a change in the effective voting control of the Tenant. "Transferor" and "Transferee" have meanings corresponding to the definition of "Transfer" set out above, (it being understood that for a Transfer described in clause (iv) the Transferor is the Person that has effective voting control before the Transfer and the Transferee is the Person that has effective voting control after the Transfer).

12.02 Consent Required

The Tenant will not allow or cause a Transfer without the prior written consent of the Landlord in each instance which consent may not be unreasonably withheld.

(a) Without limiting the other grounds on which the Landlord shall be entitled to reasonably withhold its consent, it shall be deemed reasonable for the Landlord to withhold its consent to a Transfer on the basis:

- (i) that it will occur within the first twelve (12) months of the Commencement Date or where there is less than eighteen (18) months left on the Term, subject however to the provisions of Section 12.04;
- (ii) of the restrictive clauses entered into with other tenants by the Landlord;
- (iii) of the financial background, business history and the capability of the proposed Transferee in the Tenant's line of business; and

- (iv) of the nature of the business practices of the proposed Transferee. In particular, consideration shall be given as to whether the proposed Transferee will operate as a "cut-rate" bargain or discount store, or a business of an obnoxious nature which may tend to lessen traffic or lower the reputation or merchandising image of the Shopping Centre or its tenants; and
- (v) that in no event shall any sublet or assignment be permitted to any tenants in the Shopping Centre.

(b) Without limiting the generality of the foregoing, no Transfer shall be effective and no consent shall be given unless the following provisions and those under Section 12.03 have been complied with:

- (i) there is no default of the obligations of the Tenant under this Lease;
- (ii) the Tenant shall have given at least thirty (30) days' prior written notice of the proposed Transfer and the effective date thereof to the Landlord;
- (iii) a duplicate original of the documents affecting the Transfer shall be given to the Landlord within thirty (30) days after the execution and delivery thereof; and
- (iv) except in the case of a Transfer described in Section 12.01(ii), the Transferee shall have assumed in writing the due and punctual performance and observance of all the agreements, provisions, covenants and conditions hereof on the Tenant's part to be performed or observed from and after the effective date of the Transfer and the Transferor shall have confirmed in writing that it remains jointly and severally liable with the Transferee for the fulfillment of all obligations of the Tenant under this Lease for the remainder of the Term and all renewals or extensions that have been exercised or consented to by the Transferor or by any party preceding it in interest as tenant under this Lease.

(c) The consent by the Landlord to any Transfer shall not constitute a waiver of the necessity for such consent to any subsequent Transfer. If a Transfer takes place, the Landlord may collect rent from the Transferee, and apply the net amount collected to the Rent herein reserved, but no such action shall be deemed a waiver of the requirement to obtain consent or the acceptance of the Transferee as tenant, or a release of the Tenant or any Indemnifier from the further performance by the Tenant of covenants on the part of the Tenant herein contained. Notwithstanding any Transfer, the Tenant shall remain fully liable under this Lease and shall not be released from performing any of the obligations of the Tenant under this Lease.

(d) The Released Persons shall not be liable for any claims or actions by or any damages, liabilities, losses or expenses of the Tenant or any proposed Transferee arising out of the Landlord unreasonably withholding its consent to any Transfer and the Tenant's only recourse shall be to bring an application for a declaration that the Landlord shall grant its consent to such Transfer.

12.03 Conditions Pertaining to Transfers

All Transfers shall be subject to the following conditions:

(a) at the Landlord's option, the annual Minimum Rent will be increased as of the effective date of the Transfer by an amount (the "Excess Amount") equal to the greater of:

- (i) the amount by which the annual Minimum Rent that pertains on the day before the effective date of the Transfer (the "Current Minimum Rent") is exceeded by the average annual total of Minimum Rent payable by the Tenant for the last two (2) Lease Years that precede the effective date of the Transfer or (if less than two (2) such Lease Years precede the effective date of the Transfer), the highest annual total of Minimum Rent payable by the Tenant since the Commencement Date; or

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- (ii) the Current Minimum Rent multiplied by the percentage increase in the C.P.I. between the month in which the Commencement Date occurs and the month immediately preceding the month in which the effective date of the Transfer occurs.

If it is stated in Section 3.01 of this Lease that the annual Minimum Rent is to increase at specified times, the Excess Amount will be added to such increased annual Minimum Rent. Further, the Tenant and the Transferee shall promptly execute an agreement prepared by the Landlord or its solicitors amending Section 3.01 in order to provide for the payment of the revised annual Minimum Rent during the remainder of the Term and all costs with respect thereto shall be paid by the Tenant to the Landlord as Additional Rent on demand. All of the other terms, covenants and conditions of this Lease shall remain as herein specified;

(b) if the Tenant shall receive from any Transferee of this Lease, either directly or indirectly, any consideration for the Transfer of this Lease, either in the form of cash, goods or services, the Tenant shall forthwith pay an amount equal to such consideration to the Landlord as Additional Rent forthwith upon receipt of same;

(c) in the event of any Transfer by virtue of which the Tenant receives a rent in the form of cash, goods or services which is higher than the Rent payable hereunder to the Landlord for the portion of the Leased Premises so Transferred, the Tenant shall pay any such excess rent to the Landlord as Additional Rent forthwith upon receipt of same;

(d) all Transfers will be documented by the Landlord on the Landlord's standard form and all legal costs with respect thereto or to any documents reflecting the Landlord's consent to the Transfer (if consent is required under this Lease) shall be payable by the Tenant on demand as Additional Rent; and

(e) in the case of a sublease, the Transferee shall waive any rights it may have under the Commercial Tenancies Act (Ontario), as amended, or any other Applicable Laws, including, without limitation, under any legal or equitable rule of law, to apply to a court or to otherwise elect to (i) retain the unexpired Term of this Lease or the unexpired sublease term, (ii) obtain any right to enter into any lease or other agreement directly with the Landlord for the Leased Premises or the subleased premises, or (iii) otherwise remain in possession of any portion of the subleased premises or the Leased Premises, in any case where this Lease is terminated, surrendered or otherwise cancelled, including a disclaimer of this Lease by a trustee in bankruptcy of the Tenant. The Tenant and the Transferee shall promptly execute any agreement required by the Landlord to give effect to the foregoing terms.

If this Lease is disaffirmed, disclaimed, repudiated, rejected or terminated as a result of court proceedings or otherwise, in connection with the insolvency or bankruptcy of any Transferee, then at the Landlord's option the original Tenant named in this Lease will enter into a lease (the, "**Remainder Period Lease**") with the Landlord, containing the same terms and conditions as this Lease modified, however, by increasing the Minimum Rent based on the formula in this Section 12.03 and by changing the Term of the Remainder Period Lease so that it commences on the date of the disaffirmation, disclaimer, repudiation, rejection or termination, and expires on the date on which this Lease would have expired had the disaffirmation, disclaimer, repudiation, rejection or termination not occurred.

12.04 Landlord's Response to Tenant's Request for Consent and Option to Terminate

The Landlord will, within thirty (30) days after its receipt of the Tenant's request for consent and all information that the Landlord requires from the Tenant in order to evaluate the Transfer and make its decision, notify the Tenant that the Landlord either: (a) consents to the Transfer; or (b) elects to terminate this Lease. If the Landlord elects to terminate this Lease, the Tenant may, by written notice to the Landlord given within seven (7) days after receipt of the Landlord's notice, withdraw its request for the Landlord's consent. In that case, the Landlord's election to terminate this Lease will be void. If the Tenant fails to withdraw its request for the Landlord's consent in writing within the seven (7) day period above, then the Tenant will deliver, in accordance with the provisions of this Lease, vacant possession of the Leased Premises on the date specified in the Landlord's notice, which date will not be less than thirty (30) days and not more than one hundred twenty (120) days after the date the Landlord's termination notice is given. For clarity, and notwithstanding anything in this Lease to the

contrary, it is understood and agreed that the Landlord's right to terminate as set out in this Section 12.04 shall be in preference to providing its consent to a proposed Transfer.

12.05 No Advertising of Leased Premises

The Tenant shall not print, publish, post, display or broadcast any notice or advertisement to the effect that the Leased Premises are for lease or for sale or otherwise advertise the proposed sale or lease of the whole or any part of the Leased Premises and shall not permit any broker or other party to do any of the foregoing, unless the complete text and format of any such notice, advertisement or offer is first approved in writing by the Landlord (except that without in any way restricting or limiting the Landlord's right to refuse any text or format on other grounds, the text or format proposed by the Tenant shall not contain any reference to the rental rate of the Leased Premises).

ARTICLE XIII DEFAULT OF TENANT

13.01 Right to Re-Enter

If:

- (a) the Tenant is in default in the payment of any Rent and fails to remedy the default within five (5) consecutive days after written notice,
- (b) the Tenant commits a breach of any obligation, agreement or covenant under this Lease that is capable of remedy (other than its covenant to pay Rent) and fails to remedy the default within fifteen (15) consecutive days after written notice to the Tenant (or if the breach would reasonably take longer than fifteen (15) consecutive days to remedy, the Tenant after commencing to remedy the default within that time period fails to continue diligently and expeditiously to complete the remedy within a reasonable period having regard to the nature of the default),
- (c) a report or statement required from the Tenant under this Lease is false or misleading except as a result of an innocent clerical error,
- (d) the Tenant or any Indemnifier becomes bankrupt or insolvent or makes application for relief from creditors under the provisions of any statute for bankrupt or insolvent debtors or makes any proposal, assignment or arrangement with its creditors,
- (e) steps are taken or proceedings are instituted for the dissolution, winding-up or other termination of the Tenant's or the Indemnifier's existence or for the liquidation of their respective assets,
- (f) a receiver or a receiver and manager is appointed for all or a part of the business or assets of the Tenant, or of any Indemnifier or of another Person carrying on business in the Leased Premises,
- (g) a writ of execution is issued against the Tenant and remains outstanding for more than ten (10) days or this Lease or any of the Tenant's assets on the Premises are taken or seized under a writ of execution, an assignment, pledge, charge, debenture or other security instrument and such writ, assignment, pledge, charge, debenture or other security instrument is not stayed or vacated within fifteen (15) days after the date of such taking,
- (h) the Tenant effects or attempts to effect a Transfer that is not permitted by this Lease,
- (i) the Leased Premises are vacant or unoccupied for five (5) consecutive days or the Tenant abandons or attempts to abandon the Leased Premises or sells or removes property from the Premises so that there is insufficient property on the Premises free and clear of any encumbrance ranking ahead of the Landlord's lien to satisfy the Rent accruing for at least twelve (12) months, or

- (j) an Indemnifier (if there is one) fails to execute and deliver to the Landlord before the commencement of the Fixturing Period an indemnity agreement in the form attached hereto as Appendix "A" or an indemnity agreement between an Indemnifier (if any) and the Landlord is terminated or the Indemnifier's obligations thereunder are reduced, modified or otherwise limited except by way of express consent of the Landlord,

then an Event of Default shall have occurred and the then current month's Rent, and, in the case of a default under Section 13.01(d), 13.01(e) and 13.01(f), the Rent for the three (3) months next ensuing, shall immediately become due and payable and, at the option of the Landlord, the Landlord may, upon written notice to the Tenant but without any form of legal process, terminate this Lease and re-enter and repossess the Leased Premises and remove all Persons and property from the Leased Premises.

Upon the occurrence of an Event of Default, the Landlord shall be entitled to recover from the Tenant all damages, costs and expenses incurred by the Landlord as a result of such default (including, without limitation, the costs of recovering the Leased Premises, all arrears of Rent, all legal fees on a substantial indemnity basis (including those incurred in connection with recovery of possession of the Leased Premises or in connection with the recovery of Rent) and, if this Lease is terminated by the Landlord, the worth at the time of such termination of the excess, if any, of the amount of Rent and charges equivalent to Rent reserved in this Lease for the remainder of the Term hereof over the then reasonable rental value of the Leased Premises for the remainder of the Term hereof, all of which amounts shall be immediately due and payable from the Tenant to the Landlord. In determining the Rent which would be payable by the Tenant hereunder, subsequent to default, the annual Rent for each year of the unexpired Term shall be equal to the average annual Minimum Rent payable by the Tenant from the Commencement Date to the time of default or during the preceding three (3) Lease Years, whichever period is shorter, together with Additional Rent which would have been payable during the calendar year in which this Lease was terminated, pro-rated over a full calendar year, if required.

13.02 Right to Relet

If the Landlord does not terminate this Lease in accordance with Section 13.01 above upon the occurrence of an Event of Default, the Landlord may, at its option, enter the Leased Premises as agent of the Tenant but without terminating this Lease in order to make such alterations and repairs as may be necessary to relet the Leased Premises (which will be at the Tenant's expense) and to relet the Leased Premises for such duration and at whatever Rent and upon whatever other terms the Landlord considers advisable. On each such reletting, all rentals received by the Landlord from such reletting shall be applied first, to the payment of any indebtedness other than Rent due hereunder from the Tenant to the Landlord, second, to the repayment of any costs and expenses of such reletting (including brokerage fees and solicitors' fees and of costs of such alterations and repairs), third, to the payment of Rent due and unpaid hereunder, and the residue, if any, shall be held by the Landlord and applied in payment of future Rent as the same may become due and payable hereunder. If such Rent received from such reletting during any month be less than that to be paid during that month by the Tenant hereunder, the Tenant shall pay any such deficiency to the Landlord. Such deficiency shall be calculated and paid monthly. No such entry into the Leased Premises under this Section 13.02 shall be construed as an election on its part to terminate this Lease unless a written notice of such intention is given to the Tenant. Notwithstanding any such entry without termination under this Section 13.02, the Landlord may at any time thereafter elect to terminate this Lease for the Event of Default that gave rise to its rights under this Section 13.02.

13.03 Legal Expenses

In case suit shall be brought for recovery of possession of the Leased Premises, for the recovery of Rent or any other amount due under the provisions of this Lease, or because of the breach of any other covenant herein contained on the part of the Tenant to be kept or performed and a breach shall be established, the Tenant shall pay to the Landlord all expenses incurred therefor, including legal fees on a substantial indemnity basis.

13.04 Landlord May Perform Tenant's Covenants

If the Tenant fails to perform any of its covenants or obligations under or in respect of this Lease, the Landlord may from time to time at its discretion, perform or cause to be performed any of such covenants or obligations, or any part thereof, and for such purpose may do such things upon or in respect of the Leased Premises or any part thereof as the Landlord may consider requisite or necessary.

All expenses incurred and expenditures made by or on behalf of the Landlord under this Section, together with an administration fee equal to fifteen (15%) percent thereon, shall be forthwith paid by the Tenant to the Landlord on demand as Additional Rent.

13.05 Waiver of Exemptions from Distress

Despite the Commercial Tenancies Act (Ontario), as amended, or any other Applicable Laws, including, without limitation, under any legal or equitable rule of law: (a) none of the inventory, furniture, equipment or other property at any time owned by the Tenant is exempt from distress; and (b) no lack of compliance with any requirement concerning the day of the week, time of day or night, method of entry, giving of notice, appraising of goods, or anything else, will render any distress unlawful where the Tenant owes arrears of Rent at the time of the distress. The Landlord shall be permitted to follow and distrain against any inventory, furniture, equipment or other property removed from the Leased Premises.

13.06 General Security Agreement

The Tenant hereby grants to the Landlord a security interest (the, "**Security Interest**") in all inventory, fixtures, equipment, furniture and chattels of the Tenant situate on or about the Leased Premises from time to time (the, "**Collateral**") to secure the payment of all Rent payable pursuant to this Lease and the fulfillment of the other obligations of the Tenant under this Lease. The Tenant confirms and agrees that the Security Interest is complete and valid without the necessity of any other or further documentation in respect thereof and is intended to constitute a security agreement as defined in the Personal Property Security Act (Ontario), as amended (the, "**Act**"). This security agreement is separate from and shall survive the termination, expiry, repudiation, disaffirmance or disclaimer of this Lease. Upon default by the Tenant of its obligations pursuant to this Lease, the Landlord shall be entitled at its sole option (and without any obligation so to do), to exercise any remedies available to it as a secured party under the Act in respect of the Collateral. The Security Interest is given in addition to, and not as an alternative to, and the rights and remedies afforded to the Landlord thereunder may be exercised by the Landlord without prejudice to any of the Landlord's other rights and remedies under this Lease and at law including, without limitation, the Landlord's right of distress. The Tenant covenants and agrees that all Collateral located on the Leased Premises from time to time shall be owned by the Tenant and except in the ordinary course of the Tenant's business, the Tenant shall not at any time without the prior written consent of the Landlord, such consent not to be unreasonably withheld, dispose of all or any part of the Collateral.

ARTICLE XIV CONDITIONS

14.01 Landlord's Conditions

This Lease is subject to:

- (a) the approval by the Landlord's senior management within **thirty (30) business days** after mutual execution of this Lease and waiver by the Tenant of all its conditions under this Lease (if any); and
- (b) the approval by the Landlord of the financial standing of the Tenant and Indemnifier within **thirty (30) business days** after mutual execution of this Lease and waiver by the Tenant of all its conditions under this Lease (if any). In order for the Landlord to satisfy itself that the Tenant's and Indemnifier's financial status is satisfactory, credit references and financial information (including the most recent audited financial statements and any other financial information as

the Landlord may reasonably request) for the Tenant and Indemnifier must be submitted to the Landlord within five (5) business days after mutual execution of this Lease failing which the thirty (30) business day period referred to herein shall be deemed extended by the same number of days that have elapsed after that five (5) business day period until the Landlord has received all of such information. The Tenant and Indemnifier consent to the Landlord obtaining such credit information about the Tenant and Indemnifier as the Landlord may deem appropriate in its sole discretion.

14.02 Operation of Conditions

The conditions contained in Section 14.01 above are for the sole benefit of the Landlord and may only be waived or satisfied by the Landlord at any time in whole or in part. If written notice waiving or satisfying these conditions is not given by the Landlord to the Tenant on or prior to their corresponding respective condition dates, this Lease shall be null and void and the parties relieved from all obligations hereunder.

ARTICLE XV MISCELLANEOUS

15.01 Overholding

If the Tenant remains in possession of the Leased Premises after the end of the Term or any exercised extension or renewal with or without the Landlord's agreement, there shall be no tacit renewal of this Lease or the Term hereby granted. Where the Tenant is occupying the Leased Premises with the Landlord's prior written approval, it shall be deemed to be occupying the Leased Premises as a month-to-month tenant terminable on thirty (30) days prior written notice by either party (with no requirement that the termination date be the last day of a calendar month) and if it is occupying the Leased Premises without the Landlord's prior written approval, it shall be deemed to be a tenant at sufferance only and terminable by the Landlord at any time. In either case, the monthly Minimum Rent payable by the Tenant in advance on the first day of each month (without regard to any temporary abatement permitted by this Lease) shall be equal to the sum of:

- i. one and one-half (1-1/2) times the Minimum Rent payable during the last month of the Term;
- ii. [intentionally deleted]
- iii. one-twelfth (1/12th) of the Additional Rent payable by the Tenant for the Lease Year immediately preceding the last Lease Year of the Term;

and otherwise upon the same terms and conditions as are set forth in this Lease, except as to duration of Term, mutatis mutandis.

15.02 Successors

This Lease applies to the successors and assigns of the Landlord. This Lease binds the Tenant and its successor and assigns and enures to the benefit of the Tenant and its permitted successors and permitted assigns. If there is more than one party named as Tenant, they are jointly and severally liable under this Lease. If the Tenant is a partnership, each Person who is a member of the partnership, and each Person who becomes a member of a successor of the partnership, is liable jointly and severally as Tenant under this Lease and will continue to be liable after that Person ceases to be a member of the partnership or a successor of the partnership and after the partnership ceases to exist.

15.03 Observation of this Lease by Tenant's Employees and Others

Where there is an obligation on the Tenant requiring it to do an act under this Lease or a prohibition against the Tenant requiring it to refrain from doing an act under this Lease, then the Tenant shall be liable for the non-performance of such obligations and for the non-observance of such prohibitions by all Persons for whom the Tenant is, in law, responsible, and the term "Tenant" shall include all Persons for whom the Tenant is, in law, responsible. The

indemnity provisions of this Lease and the Landlord's rights in respect of failure by the Tenant to perform any of its obligations under this Lease shall remain in full force and effect notwithstanding the expiration, surrender or earlier termination of the Term.

15.04 Waiver

Failure by the Landlord to require performance of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or of any other term, covenant or condition herein contained. The subsequent acceptance of Rent hereunder by the Landlord shall not be deemed to be a waiver of any preceding breach by the Tenant of any term, covenant or condition of this Lease, other than the failure of the Tenant to pay the particular Rent so accepted, regardless of the Landlord's knowledge of such preceding breach at the time of acceptance of such Rent. No covenant, term or condition of this Lease shall be deemed to have been waived by the Landlord, unless such waiver be in writing by the Landlord.

15.05 Accord and Satisfaction

No payment by the Tenant or receipt by the Landlord of a lesser amount than the monthly Rent herein stipulated shall be deemed to be other than on account of the earliest stipulated Rent, and no endorsement or statement on any cheque or any letter accompanying any cheque or payment as Rent shall be deemed an accord and satisfaction, and the Landlord may accept such cheque or payment without prejudice to the Landlord's right to recover the balance of such Rent or pursue any other remedy in this Lease provided.

15.06 Entire Agreement

This Lease sets forth all the covenants, promises, agreements, conditions and understandings between the Landlord and the Tenant concerning the Leased Premises and there are no covenants, promises, agreements, conditions or representations, either oral or written, between them other than are herein and in the said schedules and rider, if any, set forth. This Lease supersedes and revokes all previous negotiations, arrangements, letters of intent, offers to lease, lease proposals, brochures and information conveyed, whether oral or in writing, between the parties or their respective representatives. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon the Landlord or the Tenant unless reduced to writing and signed by them.

15.07 No Partnership

The Landlord does not, in any way or for any purpose, become a partner of the Tenant in the conduct of its business, or otherwise, or joint venturer or a member of a joint enterprise with the Tenant.

15.08 Force Majeure

In the event that the Landlord or Tenant is, in good faith, delayed or prevented from the performance of any act required by this Lease by reason of strikes, lock-outs, labour troubles, inability to procure materials or services, failure of power, restrictive governmental laws or regulations, delays in obtaining site plan approvals from any Authority, riots, insurrection, war, act of God or other reason of a like nature not the fault of the party delayed, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Notwithstanding anything herein contained, the provisions of this Section 15.08 shall not operate to excuse the Tenant from the prompt payment of Rent or any other payments required by the terms of this Lease and shall not entitle the Tenant to compensation for any inconvenience, nuisance or discomfort thereby occasioned.

15.09 Notices

Any notice, demand, request or other instrument under this Lease will be considered to be effectively given on the date it is delivered in person or by professional courier or seventy-two (72) hours following the date it is sent by registered mail postage prepaid, to the parties as follows:

- (a) to the Landlord:
 c/o Strathallen Property Management Inc.
 2 Bloor Street West
 Suite 1001
 Toronto, Ontario
 M4W 3E2
- (b) to the Tenant:
 at the Leased Premises.
- (c) [intentionally deleted]

If there is a postal strike, notice must be delivered in person or by professional courier. Either party may at any time give notice in writing to the other of any change of address of the party giving such notice and from and after the giving of such notice the address therein specified shall be deemed to be the address of such party for the giving of notices hereunder.

15.10 Application of Money

The Landlord may apply money received from or due to the Tenant against money due and payable under this Lease and the Landlord may impute any payment made by or on behalf of the Tenant towards the payment of any amount due and owing by the Tenant at the date of such payment regardless of any designation or imputation by the Tenant. The Tenant waives any rights in respect of abatement, set-off or compensation in its favour that may exist or come to exist in connection with any amount payable under this Lease.

15.11 Survival of Indemnity and Liability Provisions

The indemnity provisions of this Lease and the Landlord's rights in respect of failure by the Tenant to perform any of its obligations under this Lease shall remain in full force and effect notwithstanding the expiration, surrender or earlier termination of the Term.

15.12 Approval in Writing

Wherever the Landlord's consent is required to be given hereunder or wherever the Landlord must approve any act or performance by the Tenant, such consent or approval, as the case may be, shall be given in writing by the Landlord before same shall be deemed to be effective.

15.13 Registration

The Tenant shall not register this Lease or any assignment or sublease or other document evidencing an interest of the Tenant or anyone claiming through or under the Tenant in this Lease or the Leased Premises. The Landlord may, at its expense, require the Tenant to execute promptly whatever document the Landlord requires for registration on title to the Shopping Centre or any part of it in connection with this Lease.

15.14 Governing Law

The Lease is to be governed by and construed according to the laws of the province in which the Shopping Centre is located.

15.15 Captions and Section Numbers

The captions, section numbers and article numbers appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or articles or of this Lease, nor in any way affect this Lease.

15.16 Brokerage Commissions

Any brokerage commission with respect to this lease transaction shall be borne

exclusively by the Tenant and the Tenant shall indemnify and hold harmless the Landlord, the Owners, the Management Company and the Mortgagee from any and all claims with respect thereto save only where the Landlord has specifically retained a broker or agent to represent it in respect of this transaction. It is also understood and agreed by all parties hereto that Strathallen Property Management Inc. has an Agency Relationship with the Landlord and is therefore participating in this transaction under the requirements of a Client Relationship for the Landlord. The Landlord and Tenant acknowledge that upon signing the Lease, they have consented to and acknowledge this Agency Relationship.

15.17 Partial Invalidity

If any term, covenant or condition of this Lease or the application thereof to any Person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease and/or the application of such term, covenant or condition to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Lease shall be separately valid and enforceable to the fullest extent permitted by law.

15.18 Time To Be of the Essence

Time shall be of the essence of this Lease.

15.19 Quiet Enjoyment

Subject to the covenants, terms and conditions of this Lease and so long as the Tenant performs its obligations under this Lease, the Landlord covenants with the Tenant for quiet enjoyment.

15.20 Non-Liability

The Tenant acknowledges, covenants and agrees that if the Landlord or any beneficial owner(s) of the Shopping Centre is ever a real estate investment trust (the "Trust"), then the obligations being created by this Lease and any liabilities arising in any manner whatsoever out of or in connection with this Lease are not personally binding upon, and that resort shall not be had to, nor shall recourse or satisfaction be sought from, the private property of any of:

- (a) the unit holders of the Trust;
- (b) annuitants under a plan of which a unit holder of the Trust acts as trustee or carrier; and
- (c) the officers, trustees, employees or agents of the Trust.

15.21 Conveyancing to Governmental Authorities

The Tenant covenants and agrees that in the event that the Landlord is required to convey a portion of the lands comprising the Shopping Centre to any Authority, including, without limitation, any municipality or other governmental authority having jurisdiction, for the purpose of providing a road widening or for other purposes, it shall execute a partial surrender of this Lease and such documentation as is required to remove the registration of this Lease from the lands which are being conveyed, upon being provided with documentation for execution by the Landlord. The Tenant covenants and agrees to deliver such document, or such further assurances as are reasonably required by the Landlord, within fifteen (15) days following receipt thereof, and without requiring any compensation therefor.

15.22 Confidentiality

The Tenant agrees that the terms of this Lease shall at all times remain confidential and will not be disclosed by the Tenant and its agents and representatives to any third party except as required by a court of competent jurisdiction, the Tenant's solicitors or by the Tenant's lenders in conjunction with a loan or refinancing (in which case the Tenant shall obtain a similar covenant of confidentiality from such financial institution).

15.23 Schedules

Schedules "A", "B", "B-1", "C", "D", "E", and "F" attached hereto form part of this Lease.

15.24 Collateral Rights

The Tenant acknowledges that any breach of the Tenant's right of first refusal, option to lease, right of first offer or any other right to lease and any exclusive use restriction or similar restriction granted to it under this Lease will not entitle the Tenant to treat any breach of such rights as a repudiation or fundamental breach of this Lease by the Landlord and the remedies of the Tenant in connection with any breach of any such rights are limited to an action in damages.

15.25 Limitation of Recourse

The Tenant acknowledges that, notwithstanding any other provision contained in this Lease, the obligations of and rights against the Landlord under this Lease shall be performed, satisfied and paid only out of and enforced against, and recourse hereunder shall be had only after judgment and only against, the right, title and interest of the Landlord from time to time in, and the Landlord's revenue derived from the Shopping Centre. No obligation of the Landlord hereunder or in respect hereof is personally binding upon, nor shall any resort or recourse be had, judgment issued or execution or other process levied against, the Landlord (except to the extent necessary for enforcement under the first sentence of this Section and only for that purpose), or against any other assets or revenues of the Landlord.

15.26 No Contra Proferentum

The Tenant confirms that this Lease has been freely negotiated and that the Tenant had or waived the benefit of legal counsel and, notwithstanding any rule or maxim of construction to the contrary, any ambiguity or uncertainty will not be construed against the Landlord by reason of the authorship of any of the provisions hereof.

15.27 Personal Information and Protection of Electronic Documents Act

The Tenant hereby authorizes the Landlord to collect, use and exchange information about the Tenant and its creditworthiness, from and with it and third parties including references; personal information and credit reporting agents and bureaus; and other organizations with which it may have financial dealings at any time while an obligation is outstanding in respect of this Lease, for leasing purposes including, but not limited to, the enforcement of any lease or obligation related thereto and owed by the Tenant. The Tenant also agrees to provide such information to the Landlord, when requested, while an obligation is outstanding in respect of this Lease.

15.28 Planning Act

It is an express condition of this Lease that the provisions of any planning act legislation (or legislation similar thereto which has the effect of requiring consent to leases having terms in excess of specified years) that is in force in the Province in which the Shopping Centre is situated be complied with if applicable. If consent under that legislation is required, then until the necessary consent to this Lease is obtained, the Term (including any extensions or renewals thereof) and the Tenant's rights and entitlement granted by this Lease shall be deemed to extend for a period equal to the maximum period under such legislation which does not require consent. The Tenant shall apply diligently to prosecute such application for such consent forthwith upon the execution of this Lease by both Landlord and Tenant, and the Tenant shall be responsible for all costs, expenses, taxes and levies imposed, charged or levied as a result of such application and in order to obtain such consent. The Tenant shall at all times keep the Landlord informed of its progress in obtaining such consent and the Landlord shall cooperate with Tenant in regard to such application. Notwithstanding the foregoing provisions of this Section 15.28, the Landlord reserves the right at any time, at the Tenant's cost and expense, to apply for such consent in lieu of the Tenant and the Tenant's application is hereby expressly made subject to any application which the Landlord intends to make. The Tenant shall pay to the Landlord on demand as Additional Rent, all costs and expenses (including legal fees) incurred by the Landlord in connection with any such application for consent, together with an administration fee of fifteen percent (15%) of such costs and expenses.

15.29 Extended Meanings

The use of the neuter singular pronoun to refer to the Landlord or the Tenant is a proper reference even though the Landlord or the Tenant is an individual, a partnership, a corporation or a group of two or more individuals, partnerships or corporations. The grammatical changes needed to make the provisions of this Lease apply in the plural sense when there is more than one Landlord or Tenant and to corporations, associations, partnerships or individuals, males or females, are implied. Words, phrases or expressions which are defined in this Lease in the plural have a corresponding meaning when used in this Lease in the singular and words, phrases or expressions which are defined in this Lease in the singular have a corresponding meaning when used in this Lease in the plural.

15.30 Counterparts

This Agreement may be executed in any number of counterparts. A party may send a copy of its executed counterpart to each other party by facsimile or electronic transmission instead of delivering a signed original of that counterpart. Each executed counterpart (including each copy sent by facsimile or electronic transmission) shall be deemed to be an original. All executed counterparts taken together shall constitute one agreement.

15.31 Indemnifier Obligations

[Intentionally deleted].

[Remainder of Page Left Intentionally Blank].

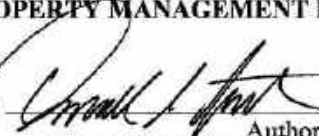


15.32 Tenant's Acceptance

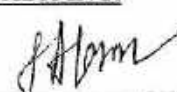
The Tenant hereby accepts this Lease for the Leased Premises to be held by it as tenant subject to the conditions, restrictions and covenants set forth in this Lease.

IN WITNESS WHEREOF the Landlord and the Tenant have signed and sealed this Lease as of the day and year set out below.

This 7th day of JANUARY, 2019

) **ONTARI HOLDINGS LTD. BY ITS**
) **AUTHORIZED AGENT STRATHALLEN**
) **PROPERTY MANAGEMENT INC.**
) (Landlord)
)
) Per: 
) Donald R. Burton Authorized Signature
)
) Per: _____
) Authorized Signature
) I/We have authority to bind the corporation.
)

This 20 day of Dec, 2018

) **9052526 CANADA INC.**
) (Tenant)
)
) Per: 
) Authorized Signature
)
) Per: _____
) Authorized Signature
) I/We have authority to bind the corporation.

[intentionally deleted]

Handwritten signature or initials in the bottom right corner of the page.

SCHEDULE "A"
LEGAL DESCRIPTION

Firstly:

PIN No. 06501-0075 (LT)

Parcel 4-1, Section 66M-2173; Lot 4 on Subdivision Plan 66M-2173, formerly City of Scarborough, City of Toronto.

Subject to Instrument Nos. C272059, C267575 and C267576.

Land Titles Division of the Metropolitan Toronto (No. 80)

Secondly:

PIN No. 06501-0076 (LT)

Parcel 3-1, Section 66M-2173; Lot 3 on Subdivision Plan 66M-2173, formerly City of Scarborough, City of Toronto.

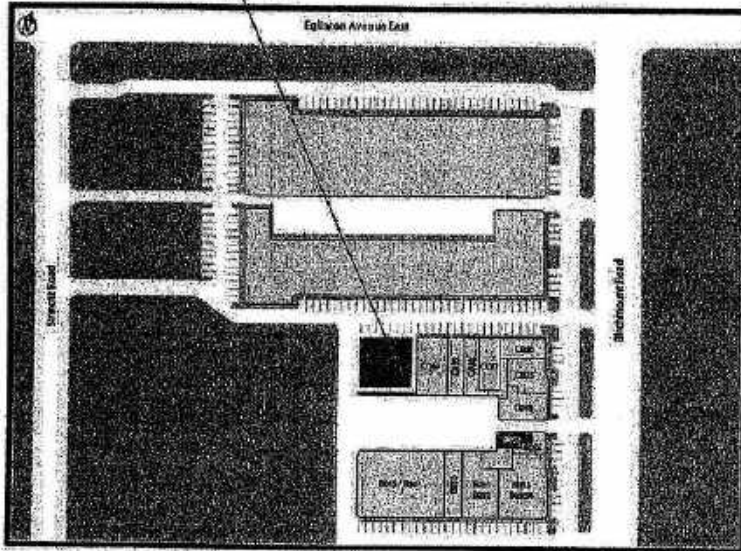
Subject to Instrument Nos. C272056, C267575 and C267576.

Land Titles Division of the Metropolitan Toronto (No. 80)



**SCHEDULE "B"
SITE PLAN**

Proposed Unit C042;
8,363 Square feet

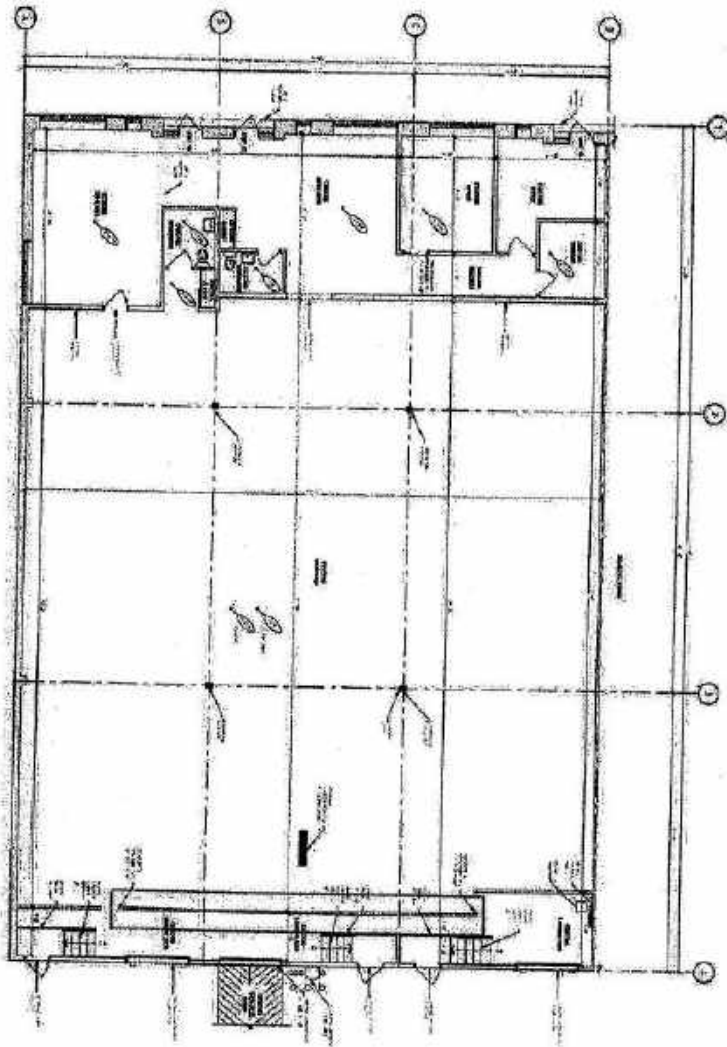


This plan is for illustration purposes only and the Landlord shall not be obligated to construct the buildings in the locations and configurations shown. The exact location of the Leased Premises is subject to change in accordance with the Landlord's development criteria. Any references on this plan to specific tenants are subject to change from time to time and shall not be deemed to be any representation as to the tenants that are within the Shopping Centre as of the date of execution of this Lease or at any time thereafter.

A handwritten signature or set of initials, possibly 'JH', written in dark ink.

47

**SCHEDULE "B-1"
FLOOR PLAN**



SK

**Landlord to demolish demising wall separating the load area from the warehouse area.

SCHEDULE "C"
LANDLORD'S AND TENANT'S WORK
CONSTRUCTION OF LEASED PREMISES

Landlord's Obligation

The Landlord will, at its expense, complete the following "Landlord's Work" that is referred to below in this Schedule "C" in respect of the Tenant's initial occupancy of the Leased Premises on a once only basis using its choice of materials and contractors. The Landlord's Work will be substantially completed prior to the start of the Fixturing Period set out in Section 2.03 of this Lease. The Tenant shall pay for the cost of any changes it requests to the Landlord's Work and the Landlord shall not be responsible for any delays caused as a result of, and the Commencement Date shall not be postponed by, any such changes. The Tenant shall use all reasonable efforts to assist the Landlord in completing the Landlord's Work in accordance with a schedule for completion of the Landlord's Work as established by the Landlord. The Landlord shall not be responsible for, and the Commencement Date shall not be delayed due to, any delays caused by the Tenant's failure to agree to or act in accordance with said schedule.

Any equipment or work other than those items specifically enumerated as Landlord's Work which the Landlord installs or constructs in the Leased Premises at the Tenant's request shall be paid for by the Tenant as Additional Rent within fifteen (15) days after receipt of a bill therefor, at cost plus fifteen percent (15%) for overhead and supervision.

Landlord's Work

None, save and except for the Landlord to demolish the demising wall the back of the unit. The Tenant accepts the Leased Premises in its "as is" condition referred to below under "Tenant's Obligation."

Landlord's Work at Tenant's Cost

None.

Tenant's Obligation

Subject to the Landlord's Work referred to in Landlord's Work above (if any), the Tenant accepts the in its "as is" condition as of the Possession Date referred to in Section 2.03 of the Lease and acknowledges that the Landlord has no obligations with respect to the for any alterations, improvements or additions, any of which, if required, shall be completed by the Tenant at its expense in accordance with the provisions of this Schedule "C" and the other provisions of the Lease pertaining to the performance by the Tenant of any work to the Leased Premises. The Landlord does not warrant any equipment taken in this "as is" condition within the Leased Premises.

Tenant's Work

Subject to the Landlord's Work referred to above in Landlord's Work (if any), the Tenant will be responsible for the cost and performance of the design, coordination and complete construction of all leasehold improvements and any special requirements beyond those now existing in the that are required to make the Leased Premises complete and suitable for the conduct by the Tenant of its use set out in Section 7.01 of the Lease (collectively the, "Tenant's Work"). Should the Tenant wish to modify the existing storefront or any other aspect of the Leased Premises or any systems therein, such work shall form part of the Tenant's Work. Additionally, at its expense and as part of the Tenant's Work, the Tenant shall install hoarding that is suitable for the Shopping Centre and in keeping with the Landlord's design criteria and shall remove and dispose of same at its expense upon completion of construction.

The Tenant shall perform the Tenant's Work as expeditiously as possible in a good and workmanlike manner using first class materials and in accordance with all Applicable Laws, in compliance with such reasonable rules and regulations as the Landlord has established for the Tenant, in accordance with the Landlord's construction methods and procedures adopted from time to time for the Shopping Centre and in accordance with the provisions of this Schedule "C" and the other provisions of the Lease pertaining to the performance by the Tenant of any work in or to the Leased Premises, and the Tenant shall conduct the Tenant's Work in a manner that does not

interfere unreasonably with work being done by the Landlord in the Leased Premises or any other part of the Shopping Centre. Where any Tenant's Work is visible from the Common Areas, the Tenant will comply with all design criteria which the Landlord prescribes. The Tenant's Work shall be carried out by workers approved in advance by the Landlord (acting reasonably) under the supervision of one or more professional contractor(s) and designer(s) approved in advance by the Landlord (acting reasonably).

The Tenant's Work is subject to the reasonable supervision of the Landlord or its agents or contractors. The Tenant shall be responsible to reimburse the Landlord for any out of pocket costs and expenses associated with reviewing the Tenant drawings, plans and specifications in respect of the Tenant's Work (which shall be reimbursed within thirty (30) days upon the Tenant's receipt of an invoice).

Prior to commencing any Tenant's Work the Tenant shall, at its expense, submit to the Landlord four (4) complete sets of professionally prepared working drawings (which shall include architectural, structural, electrical, mechanical and telecommunication plans) of the proposed Tenant's Work (which drawings at a minimum shall show conform to the "Store Submission Requirements" referred to below in this Schedule "C"). The Tenant's Work will not be allowed to commence without prior written approval from the Landlord over such plans (not to be unreasonably withheld) and without the Tenant obtaining a valid building permit. The Landlord requires that the Tenant retain the Landlord's base building mechanical, electrical and structural engineering consultants at the Tenant's expense to ensure compatibility of base building systems and the Tenant's Work. Any work requiring modification and interfacing with base building work and systems and all work that is structural in nature shall, at the Landlord's request, be done only by the Landlord's designated contractors at the Tenant's expense.

If any construction or other liens are claimed, filed or registered against the Leased Premises or other parts of the Shopping Centre in connection with the Tenant's Work and are not removed within five (5) days of the Landlord's request for their removal, an immediate Event of Default shall be deemed to have occurred and the Tenant shall be deemed to be in default under the Lease and the Landlord, without affecting its other remedies, may discharge the lien by paying such amount claimed into court and the amount so paid together with all legal and other associated costs and expenses will be paid by the Tenant to the Landlord forthwith on demand.

OTHER PROVISIONS

Performance of Tenant's Work

The following provisions are in addition to, and do not waive the provisions of any general covenants between the Tenant and the Landlord as may be contained in the Lease:

- A. Before doing any item of Tenant's Work, Tenant shall (i) secure and demonstrate to the Landlord on demand, all necessary permits and approvals from all Authorities; (ii) deliver to Landlord a certificate evidencing that it has obtained contractors' general liability insurance in the minimum amount of \$10,000,000.00 in accordance with the Landlord's requirements, naming the Landlord, the Management Company, the Mortgagee and such other parties as are required by the Landlord as additional insureds; (iii) Builders Risk & Wrap Up insurance in the minimum amount of \$10,000,000.00; and (iv) deliver at least one (1) contractor's quotation outlining the scope of the Tenant's Work and estimated cost of the Tenant's Work which the Tenant intends to undertake and complete in accordance with the terms hereof. Upon completion, Tenant shall secure all applicable certificates of completion and occupancy.
- B. Any damage to the Leased Premises or the Shopping Centre caused by the act, fault, default or negligence of the Tenant, its agents, contractors, employees, servants, licensees, subtenants, concessionaires, invitees or others for whom the Tenant is in law responsible shall in the case of damage to the Leased Premises, be repaired by the Tenant at its sole cost and expense and in the case of damage to the Shopping Centre, shall be repaired at the option of the Landlord by (i) the Tenant, at its sole cost and expense; or (ii) by the Landlord, in which case the Tenant shall pay on demand as Additional Rent, the Landlord's costs for making such repairs, together with an administration fee of fifteen percent (15%) of such costs.

- C. Under no circumstances will the Tenant, its agents, contractors, employees, servants, licensees, subtenants, concessionaires, invitees or others for whom the Tenant is in law responsible enter onto any roof of the Shopping Centre or make any opening in the roof.
- D. The Tenant, its agents, contractors, employees, servants, licensees, subtenants, concessionaires, invitees or others for whom the Tenant is in law responsible shall not impose a greater load on any concrete floor than the design live load of 100 pounds per square foot uniformly distributed. No unusual loads may be suspended from the underside of roof structure.
- E. The Tenant shall maintain the Leased Premises in a reasonably clean and orderly manner and shall be responsible for the cost of removing from the Shopping Centre all excess materials, trash and cartons resulting from Tenant's Work and stocking of the Leased Premises. Should the Tenant fail to regularly clean up construction material, trash and cartons, the Landlord may remove such materials and charge the costs to the Tenant together with an administration fee of fifteen percent (15%) of such costs, payable by the Tenant to the Landlord on demand as Additional Rent.

Exhaust and Odours

- A. Objectionable odours from the Leased Premises shall, at the Tenant's expense, be exhausted in such a manner as precludes their escaping into the Common Areas or other rental areas, or short-circuiting into any fresh-air vents. The Tenant specifically acknowledges and agrees that it shall be responsible for any costs, expenses or damages suffered or incurred by the Landlord as a result of claims by other tenants of the Shopping Centre relating to objectionable odours or exhaust emanating from the Leased Premises during the completion of the Tenant's Work or otherwise during the Term of the Lease. The Landlord shall be entitled to require the Tenant to suspend the Tenant's Work on twenty four (24) hours prior written notice in the event that the Tenant fails to comply with its obligations contained herein.
- B. Where the Tenant request a total exhaust rate greater than 200 CFM/bay, the Tenant shall provide a make-up air system in accordance with the Landlord's specifications, sized in the amount of the excess and shall waive right to demand of the Landlord the ambient design conditions specified in the design package provided to the Tenant by the Landlord, if any.
- C. The Tenant's air-handling equipment may not under any circumstances draw air from any enclosed mall or exhaust into it.
- D. Garbage refrigeration equipment must be installed in the Leased Premises by the Tenant if perishable items are handled.

STORE SUBMISSION REQUIREMENTS

The Tenant shall provide complete working plans and specifications in the following form:

- A. Floor plan: Scale 1/4" = 1'0".
- B. Reflecting ceiling: Scale 1/4" = 1'0".
- C. Store front and show window elevation and sections: 1/4" = 1'0".
- D. Store front and show window details: Scale 3" = 1'0".
- E. Interior elevations: Scale 1/4" = 1'0".
- F. Interior finishing schedule.
- G. Plans or sketches showing location of equipment that Tenant intends to install, complete with catalogue sheets, specifications and sketches of same showing gas, water and electrical consumption, motor horsepower and electric characteristics, controls and any other requirements necessary to provide direction to contractor to complete installation.

- H. Sign as outlined in Sign Directive.
- L. Expansion joint details (if applicable).
- J. Any other special facilities or installations that affect the building.
- K. Specifications and identification of materials.
- L. Specification of colour to include colour chips.
- M. Specification and locations of any store front lighting to be placed in Landlord's ceiling for sign lighting or store front lighting.
- N. Sprinkler and other fire protection devices.
- O. Under floor electrical or plumbing.
- P. Electrical wiring plan.
- Q. Ductwork for connection to Landlord's air conditioning system, toilet exhaust system and any other ventilation system required by the Tenant.

All required drawings and specifications shall be submitted for approval within a reasonable time and in any event within fifteen (15) days of written request for by the Landlord therefor. No Tenant's Work may proceed prior to the Landlord's written approval, which will not be unreasonably withheld nor unduly delayed.

ALL TENANT DRAWINGS MUST BE IN TRACING OR SEPIA FORM TO FACILITATE REPRODUCTION BY THE LANDLORD. ALL MECHANICAL DRAWINGS AND SPECIFICATIONS SHALL BE STAMPED BY AN ENGINEER QUALIFIED TO PRACTICE IN THE PROVINCE IN WHICH THE SHOPPING CENTRE IS LOCATED. ALL ELECTRICAL DRAWINGS AND SPECIFICATIONS (INCLUDING LIFE SAFETY AND FIRE SAFETY) SHALL BE STAMPED BY AN ELECTRICIAN QUALIFIED TO PRACTICE IN THE PROVINCE IN WHICH THE SHOPPING CENTRE IS LOCATED. ANY CHANGES TO THE PLANS AND SPECIFICATIONS THAT HAVE BEEN APPROVED BY THE LANDLORD SHALL BE STAMPED BY AN ARCHITECT OR ENGINEER QUALIFIED TO PRACTICE IN THE PROVINCE IN WHICH THE SHOPPING CENTRE IS LOCATED AND SHALL ALSO BE SUBJECT TO THE PRIOR WRITTEN APPROVAL OF THE LANDLORD. ANY INCREASE IN THE COST OF COMPLETING THE LANDLORD'S WORK RESULTING FROM CHANGES REQUESTED BY THE TENANT SHALL BE TO THE ACCOUNT OF THE TENANT AND THE LANDLORD SHALL BE REIMBURSED FOR SAME TOGETHER WITH AN ADMINISTRATION FEE OF FIFTEEN PERCENT (15%) OF SUCH COST IMMEDIATELY UPON PRESENTATION OF AN INVOICE IN RESPECT THEREOF.

DEMOLITION

- () Carry out all internal demolition required to install new equipment described hereunder, including, without limitation, partitions, ceilings, floor finishing, air ducts, etc.
- () Dismantle existing storefront and install a temporary painted hoarding.
- () Dismantle the temporary hoarding upon completion of all work and clean damaged materials or finishes, if necessary.

STOREFRONT AND BULKHEAD

- () Repair, clean and renew current storefront, including without limitation, display windows, doors grilles and their operating mechanisms and storage recess.
- () Supply and install a new storefront in compliance with the Shopping Centre Design Criteria.
- () Clean and repaint current bulkhead in the standard colors of the Shopping Centre.

SIGN

- () Supply and install a new (interior of Mall) and/or (exterior of Mall) sign to be connected to a timer, as well as all necessary supports and connections to the (Tenant's) or (Landlord's) power supply, as agreed between the Landlord and the Tenant.
- () Recondition existing sign.

INTERIOR FINISHINGS

- () Supply new commercial-grade floor covering including architectural finish (ceramic tile, marble, slate, etc.) in the front 6'0" to 8'0" of the Premises.
 - () Repair, clean and renew current floor covering.
- () Add architectural-type floor covering (ceramic tile, marble, slate, etc.) in the front 6'0" to 8'0" of Premises.
 - () Repair, renew and repaint existing walls.
 - () New ceiling (with a minimum fire resistance of one hour) and suspension systems.
 - () Replace current ceiling tiles with new tiles, adjust and repaint current suspension, if necessary.
- () Replace broken or damaged ceiling tiles by tile of the same type as the rest of the ceiling, adjust and repaint existing suspension if required.
- () Repair and renew gypsum ceiling sections and repaint.
- () Clean and/or repaint diffusers and air-return grilles.

SCHEDULE "D"
RULES AND REGULATIONS

- I All loading and unloading of goods shall be done only at such times, in the areas, and through the entrances, designated for such purposes by the Landlord.
- II The delivery or shipping of merchandise, supplies and fixtures to and from the Leased Premises shall be subject to such controls as in the judgment of the Landlord are necessary for the proper operation of the Leased Premises and/or the Shopping Centre.
- III All garbage and refuse shall be kept in the kind of containers specified by the Landlord and shall not be burned in or about the Leased Premises.
- IV No radio, television, telegraphic or telephone or similar device and no water pipe, gas pipe or electric wire shall be installed or connected without obtaining in each instance the written consent of the Landlord. All such connections shall be installed in accordance with the Landlord's direction and without such direction no boring or cutting for wires or pipes shall be permitted.
- V The Tenant and its employees, suppliers and other Persons not customers having business with the Tenant, shall park their cars only in those portions of the parking area designated for that purpose by the Landlord. Within five (5) days after taking possession of the Leased Premises the Tenant shall furnish the Landlord with the automobile license numbers of the Tenant and its employees and shall thereafter notify the Landlord of any changes within five (5) days after such changes occur. Should the Tenant or its employees or other Persons not customers having business with the Tenant park vehicles in areas not allocated for that purpose, the Landlord shall have the right to remove the said trespassing vehicles and the Tenant shall save harmless the Landlord from any and all damages therefrom and the Tenant shall pay the costs of such removal.
- VI The plumbing facilities shall not be used for any other purpose than that for which they are intended, and no foreign substance of any kind shall be thrown therein, and the expense of any breakage, stoppage or damage resulting from a violation of this provision together with an administration fee of fifteen percent (15%) of such expense shall be borne by the Tenant and payable by it as Additional Rent on demand.
- VII The Tenant shall use at the cost of the Tenant such pest extermination contractor as the Landlord may direct and at such intervals as the Landlord may require.
- VIII The Tenant, its employees or agents, shall not mark, paint, drill or in any way deface any walls, ceilings, partitions, floors, wood, stone or iron without the written consent of the Landlord.
- IX Except as permitted in the Lease to which these rules and regulations are annexed, the Tenant shall not permit any cooking in the Leased Premises without the written consent of the Landlord.
- X No mall, sidewalk, entry, passageway, elevator or staircase shall be obstructed or used by the Tenant, its officers, agents, servants, employees, contractors, customers, invitees or licensees for any purpose other than ingress to and egress from the Leased Premises.
- XI The Tenant, its officers, agents, servants, employees, contractors, customers, invitees or licensees shall not bring in or take out, position, construct, install or move any safe or other heavy equipment or furniture without first obtaining the consent in writing of the Landlord. In giving such consent, the Landlord shall have the right in its sole discretion, to prescribe the weight permitted and the position thereof, and the use and design of planks, skids or platforms to distribute the weight thereof. All damage done to the Shopping Centre by moving or using any such safe, heavy equipment or furniture shall be repaired at the option of the Landlord by (i) the Tenant, at its sole cost and expense; or (ii) by the Landlord, in which case the Tenant shall pay on demand as Additional Rent, the Landlord's costs for making such repairs, together with an administration fee of fifteen percent (15%) of such costs. The moving of all equipment and furniture shall occur only during those hours when the Shopping Centre shall not be open for business


or any other time consented to by the Landlord and the Persons employed to move the same in and out of the Leased Premises shall be acceptable to the Landlord.

- XII All Persons entering and leaving the building in which the Leased Premises are situated at any time other than during normal business hours shall register in the books kept by the Landlord and the Landlord will have the right to prevent any Person from entering or leaving such building unless provided with a key to the premises to which such Person seeks entrance or a pass in a form to be approved by the Landlord. Any Persons without such key or passes will be subject to the surveillance of the employees and agents of the Landlord. The Landlord shall be under no responsibility for failure to enforce this rule.
- XIII The Tenant shall not place or cause to be placed any additional locks upon any doors of the Leased Premises without the approval of the Landlord and subject to any conditions imposed by the Landlord.
- XIV No one shall use the Leased Premises for sleeping apartments or residential purposes, or for the storage of personal effects or articles other than those required for the purposes permitted by the lease to which these rules and regulations are annexed.
- XV The Tenant shall permit window cleaners to clean the windows of the Leased Premises from time to time and at reasonable times.
- XVI Any hand trucks, carryalls or similar appliances used in any building in the Shopping Centre shall be equipped with rubber tires, side guards and such other safeguards as the Landlord shall require.
- XVII No animals or birds shall be brought into the Leased Premises except as permitted by the lease to which these rules and regulations are annexed.
- XVIII Except as permitted in the lease to which these rules and regulations are annexed, the Tenant shall not permit the delivery of any food or beverage to the Leased Premises without the approval of the Landlord.
- XIX The Tenant shall not solicit business in the Common Areas or distribute any handbills or other advertising matter in the Common Areas or in automobiles parked in the parking areas.
- XX The Tenant shall keep the Leased Premises at a temperature sufficiently high to prevent freezing of water in pipes and fixtures.
- XXI The Tenant shall not keep or display any goods or merchandise on or otherwise obstruct the Common Areas adjacent to the Leased Premises.
- XXII The Tenant shall not use or permit any part of the Leased Premises to be used in such a manner as to cause annoying noises or vibrations or offensive odours.
- XXIII The Tenant shall keep its display windows and signs lit in a manner satisfactory to the Landlord until 11:00 p.m. local time, on each evening except if prevented by reasons beyond the control of the Tenant or unless otherwise approved by the Landlord.

SCHEDULE "E"
RESTRICTIVE COVENANTS AND EXCLUSIVE COVENANTS AFFECTING THE
LANDLORD AND THE SHOPPING CENTRE

The following are summaries of the exclusive use covenants in effect at the date of this Lease. The Landlord is prepared to produce the exact text to the Tenant on the Tenant's written request of each exclusive use covenant which affects the Tenant's use in the Leased Premises. Defined terms used below have the meanings set out in the leases that correspond to the tenants referred to below.

Apple Auto Glass

L sec 6. 3.1 - automotive glass repair and replacement and automotive repair cleaning and replacement - excludes existing tenants as of lease date. 

UAP Inc

S.12 3rd LEAA: Landlord agrees that it will not at any time during the Term and/or extended terms, lease or re-lease to any tenant within the Complex for the purposes of carrying on as its principal business of the sale, warehousing and distribution of automotive parts. This will not apply to any leases or offers to lease or tenant in possession of premises in the Complex as of December 22, 2015 and their respective successors and assigns.



SCHEDULE "F"
PRE-AUTHORIZED PAYMENT PLAN

TENANT INFORMATION

Store Name: _____ (store number) _____

Head Office Address: _____
 (street number and name) _____

 (city) (province) (postal code)

LANDLORD INFORMATION

ONTARI HOLDINGS LTD.
750-760 Birchmount Road
Toronto ON M5K 1R7

BANKING INFORMATION

PLEASE ATTACH A VOID CHEQUE.

Bank Name: _____

Bank Address: _____
 (street number and name) _____

 (city) (province) (postal code)

(branch number) (bank number) (account number)

COMPANY AUTHORIZATION

I authorize ONTARI HOLDINGS LTD. and its property manager, STRATHALLEN PROPERTY MANAGEMENT INC., collectively referred to herein as "Strathallen" to debit the account with the depository named on this form for all amounts due resulting from rent payments or other lease obligations on a monthly basis. I agree to promptly notify Strathallen of any changes to my bank account or contact information and understand that Strathallen may require me to complete a new Pre-Authorized Debit Enrollment form and authorization. I agree that, if at the time of cancellation of this service and/or cancellation of the lease, written notification will be sent to the landlord, and this agreement will be considered null and void. If Strathallen erroneously deposits or initiates a transfer of funds into my account, I authorize Strathallen to initiate the necessary credit entries. I have certain recourse rights if any debit does not comply with this agreement. For example, I have the right to receive reimbursement for any debit that is not authorized or is not consistent with this PAD agreement. To obtain more information on my recourse rights, I may contact my financial institution or visit www.cndpay.ca.

(AUTHORIZED SIGNATURE)

(name of signator)

(title of signator) (date of first payment)

(date signed) (phone number)

BIRCHM
019828

Appendix "F"

THIS SUBLEASE AND EQUIPMENT PURCHASE AGREEMENT made as of the 1st day of February, 2021.

IN PURSUANCE OF THE Short Form of Leases Act, R.S.O. 1990, c. S. 11

BETWEEN:

9052526 Canada Inc. (o/a WestEast)
(hereinafter called the "**Sublandlord**" or "**WestEast**")

-and-

1890194 Ontario Inc. (o/a Jamuna Foods)
(hereinafter called the "**Subtenant**" or "**Jamuna**")

WHEREAS:

1. By a lease agreement dated December 18th, 2018 (the "**Head Lease**") between the Sublandlord and Ontari Holdings Ltd. (the "**Head Landlord**"), the Sublandlord has leased from the Head Landlord the premises municipally known as Unit No. C042, located at the municipal address 760 Birchmount Road, Scarborough, Ontario M1K 5H8 (the "**Premises**").
2. The Sublandlord and Subtenant are parties to an informal, unwritten sublease agreement relating to the Premises, whereby the Subtenant has been in possession of the whole of the Premises since the beginning of the Head Lease Term and has been paying all Rent payable under the Head Lease directly to the Head Landlord (including all Rent deposits).
3. The Subtenant remains in possession of the Premises.
4. The Sublandlord and Subtenant have agreed to enter into this Sublease to further define and set out the covenants, agreements, and conditions upon which the Subtenant subleases the Premises from the Sublandlord.

WHEREAS REGARDING THE EQUIPMENT PURCHASE:

5. WestEast made a large cash outlay for the initial capital costs associated with the Premises, Equipment, business operations and freezer costs (as defined herein as the "Loan");
6. Jamuna has repaid the Loan;
7. WestEast has agreed to provide proof that all debt associated with the Equipment is in good standing.
8. WestEast has agreed to transfer title to all Equipment to Jamuna, and discharge all loans and security attaching thereto; and
9. WestEast has agreed to use best efforts to assign the Head Lease to Jamuna Foods following the repayment of the Loan and discharge of related financing security as further set out herein.

NOW THEREFORE, in consideration of the premises and the mutual covenants, agreements and conditions herein contained, it is hereby covenanted, agreed, and declared between the parties as follows:

DEFINITIONS

In this Agreement, except where the context requires otherwise words in the singular shall include the plural and vice versa and the following words shall mean:

- | | |
|-------------|--|
| "Agreement" | the provisions set out herein together with the Schedules; |
| "Equipment" | all equipment located in and/or installed at the Premises necessary for the operations of Jamuna, including, but not limited to the freezer equipment installed in the Premises, electric works, hydraulic dock, freezer racking, and two pump trucks; |

ARTICLE 1: GENERAL COVENANTS

The parties hereto agree that the recitals above are true and correct and are incorporated herein.

1.1 Subtenant's Covenants

The Subtenant covenants with the Sublandlord:

- (a) to pay Rent; and
- (b) to observe and perform all the covenants and obligations of the Subtenant in this Sublease.

1.2 Sublandlord's Covenants

The Sublandlord covenants with the Subtenant:

- (a) for quiet enjoyment;
- (b) to observe and perform all the covenants and obligations of the Sublandlord in this Sublease; and
- (c) to observe and perform all the covenants and obligations of the Sublandlord, as tenant, in the Head Lease as they relate to the Premises.

ARTICLE 2: DEMISE AND TERM

2.1 Demise of Premises

Notwithstanding the Subtenant is already in possession of the Premises, the Sublandlord hereby demises and subleases unto the Subtenant, and the Subtenant hereby subleases from the Sublandlord, the Premises for the Term subject to the provisions of this Sublease.

2.2 Term

TO HAVE AND TO HOLD the Premises for the term of the Head Lease commencing on the 1st day of February, 2021 and continuing until termination in accordance with the provisions of this Sublease, provided that the Term of this Sublease shall end no later than the day before the termination date of the Head Lease term.

2.3 Subtenant Improvements

The Subtenant shall be responsible for all installation costs of any leasehold improvements and/or trade fixtures in the Premises, and for coordination with the Head Landlord for same. The Subtenant and Sublandlord both agree to use best efforts to negotiate with the Landlord for the characterization of freezer equipment as trade fixtures, capable of being dismantled and removed from the Premises at the end of the Term, by the Subtenant and to remain property of the Subtenant.

ARTICLE 3: RENT

3.1 Gross Rent

The Subtenant shall pay directly to the Head Landlord, during the Term all Rent (as defined in the Head Lease) due under the Head Lease, on the terms as set out in the Head Lease.

ARTICLE 4: SERVICES, FACILITIES

4.1 Operation of Premises

- (a) The Subtenant shall at its own expense operate and maintain the Premises in a first class condition.
- (b) The Subtenant shall at its own expense keep and maintain the Premises, and keep the Premises in a clean and tidy condition.
- (c) The Subtenant covenants to operate the Premises at its own risk and shall implement and maintain any security measures at its own expense. The Sublandlord shall not be responsible for any theft or damage of the Subtenant's property.

4.2 Electricity and Other Utilities

The Subtenant acknowledges that the Premises is provided "as is" and does not include, and the Sublandlord shall not be responsible for, the provision of electricity, water, or other utilities.

ARTICLE 5: USE AND OCCUPANCY OF PREMISES

5.1 Use of Premises

The Premises may be used for the purposes of warehouse and distribution of frozen food products, loading and unloading of same.

5.2 Waste and Nuisance

The Subtenant shall not carry on any business on the Premises or do or suffer any act or thing on the Premises which may constitute or result in a nuisance to the Sublandlord or others or do or suffer any waste or damage to the Premises.

ARTICLE 6: REPAIRS AND ALTERATIONS

6.1 Premises Provided in "As Is" Condition

The Subtenant hereby accepts the Premises in an "as is, where is" condition as of the date the Subtenant first took possession of the Premises. The Sublandlord is not responsible for any repair or maintenance of the Premises.

6.2 Subtenant's Repairs

The Subtenant shall, at its sole expense and throughout the Term and any renewal thereof, operate, keep, replace, repair, and maintain the Premises in first class condition and repair. For greater certainty and without limiting the foregoing, this shall include regularly clearing any debris upon the Premises and cleaning up any oil, gasoline, lubricants, or such other matter as may accumulate upon the Premises.

6.3 Alterations by Subtenant

- (a) The Subtenant shall not, without the prior written consent of the Head Landlord, , make, erect, alter or install any Leasehold Improvements or other alterations, improvements or installations to the Premises (the "Work").

- (b) Any Work shall be performed in a good and workmanlike manner. The Sublandlord shall assist with any application to the Head Landlord for their consent to the Work if necessary.

6.4 Subtenant to Leave Premises in Original Condition

The Subtenant shall leave the Premises at the expiration or other termination of the Term, in the condition and repair required by the Head Landlord pursuant to the Head Lease.

6.5 Subtenant's Insurance:

The Subtenant shall, at its own expense, take out and keep in force with respect to its use and occupation of the Premises during the Term comprehensive insurance of the type commonly called general public liability, which shall include coverage for personal injury, contractual liability, non-owned automobile liability, bodily injury, death and property damage, all on an occurrence basis with respect to the business carried on in the Premises and the Subtenant's use and occupancy of the Premises with coverage for any one occurrence or claim of not less than Two Million Dollars (\$2,000,000.00), or as otherwise set out in the Head Lease.

6.6 Release of Sublandlord and Head Landlord by Subtenant:

The Subtenant agrees that the Sublandlord, the Head Landlord and those for whom the Sublandlord and Head Landlord are at law responsible shall not be liable to any extent for any personal injury or death of, or loss or damage to any property belonging to the Subtenant or its employees, agents, invitees or licensees or any other person in, on or about the Premises unless resulting from the actual negligence of the Sublandlord or the Head Landlord, as the case may be, or unless resulting from a breach of the obligations of the Sublandlord under this Sublease. In no event shall the Sublandlord or the Head Landlord be liable to the Subtenant or its employees, agents, invitees or licensees or any other person in, on or about the Premises for:

- (a) any damage (other than insured damage) which is caused by steam, wind, water, rain, snow, or hail or for any damage caused by or attributable to the condition or arrangement of any electric or other wiring or utility supply lines, or for any damage caused by anything done or omitted by any other tenant or subtenant of the Property;
- (b) any act, omission or neglect (including theft or malfeasance) on the part of any agent, contractor or person from time to time employed by it to perform any other work in or about the Premises;
- (c) loss or damage, however caused, to money, securities, negotiable instruments, papers or other valuables of the Subtenant or its customers; or
- (d) loss or damage for which the Subtenant is required to carry insurance.

In addition, the Subtenant releases the Sublandlord and the Head Landlord, and their respective servants, agents, assistants, employees, invitees, licensees, and those for whom the Sublandlord and Head Landlord are at law responsible from all claims or liabilities in respect of damage required to be insured against by the Subtenant.

6.7 Indemnity of Sublandlord and Head Landlord by Subtenant

Except for damages insured against under section 6.5, the Subtenant shall indemnify and save harmless the Sublandlord and the Head Landlord, as well as their respective servants, agents, assistants, employees, invitees, licensees, and those for whom the Sublandlord and Head Landlord are at law responsible (collectively, the "**Indemnitees**") against and from any and all expenses, costs, damages, suits, actions or liabilities arising or growing out of any default by the Subtenant hereunder, and from all claims and demands of every kind and nature made by any person or persons to or against the Indemnitees, for all and every

manner of costs, damages or expenses incurred by or injury, damage or death to such person or persons or his, her or their property, which claims or demands may arise howsoever out of the use and occupation of the Premises by the Subtenant, its servants, agents, assistants, employees, invitees, licensees, and those for whom the Subtenant is at law responsible, from all costs, expenses and liabilities incurred in or about any such claim or any action or proceeding brought thereon. The provisions of this section shall survive the surrender, forfeiture, expiration or termination of this Sublease or any renewal thereof for any reason and at any time notwithstanding anything in this Sublease to the contrary.

ARTICLE 7: LOAN REPAYMENT AND EQUIPMENT SALE AGREEMENT

7.1 Loan Amount

WestEast made an initial cash outlay for the Premises, business and the Equipment, as well as operating costs, totalling \$654,313.63 to the end of December 2019 (the "Loan").

7.2 Loan Repayment

The parties agree that as of the date of this Agreement, the Loan has been repaid in full by Jamuna, and that Jamuna has paid all amounts owing to WestEast relating to the Premises, the Loan and the Equipment.

7.3 Proof of Good Standing

WestEast agrees to provide statements for all loans which are securitized against the Equipment from the Toronto-Dominion Bank, Toyota Industries Commercial Finance, Add Capital Corp., Travelers Leasing Ltd. and Lift Capital Corporation indicating that all loans are in good standing within fifteen (15) days' of date of this Agreement.

7.4 Discharge by WestEast

WestEast agrees to completely pay off and discharge all loans securitized against the Equipment upon final acceptance of this Agreement and to provide evidence of same within thirty (30) business days of final acceptance of this Agreement. For clarity, all PPSA registrations against WestEast listed in Schedule "C" shall be discharged.

7.5 Bill of Sale

WestEast agrees to provide a Bill of Sale to Jamuna for all Equipment upon final acceptance of this Agreement.

7.6 Transfer of Title

WestEast agrees to transfer title to Jamuna of all Equipment, Trucks, Docks, Racking, etc. that is capable of being transferred upon final acceptance of this Agreement.

7.7 Trade Fixtures

To the extent possible, WestEast will use best efforts to negotiate with the Landlord the characterization of the Equipment as trade fixtures, and for the rights of Jamuna to remove same from the Premises at the end of the lease term.

ARTICLE 8: DEFAULT

8.1 Events of Default

Each of the following shall be an event of default of the Subtenant:

- (a) whenever the Subtenant defaults in the payment of any Rent for more than five (5) days; or
- (b) whenever the Subtenant shall fail, for any reason, to perform any other covenant condition, agreement or other obligation on the part of Subtenant to be observed or performed pursuant to this Sublease (other than the payment of any Rent) and such default shall continue for fifteen (15) days after written notice thereof or such shorter period as expressly provided herein; or
- (c) if the Subtenant makes an assignment for the benefit of creditors under the Bankruptcy and Insolvency Act, or a receiving order is made in respect of the Subtenant under the Bankruptcy and Insolvency Act, or if the Subtenant takes the benefit of any legislation that may be in force for bankrupt or insolvent debtors or if any proceedings are taken by or against the Subtenant for its dissolution, winding-up or liquidation, or if a receiver or receiver and manager of the property of the Subtenant is appointed by private appointment or an order of a court or if the Term of this Sublease or any of the goods and chattels of the Subtenant on the Premises are seized or taken in execution or attachment by a creditor of the Subtenant; or
- (d) if the Premises or a substantial part thereof are abandoned or become vacant or not used or occupied while capable of use and occupancy, and remain so for a period of fifteen (15) days (which does not include temporary vacancy or non-use for a longer period when necessary to accommodate the carrying out of renovations or repairs in the Premises or a change in use of the Premises), or if the Premises are used by any other person or persons other than the Subtenant or for any other purpose than that for which the same were let, in each case without the prior written consent of the Sublandlord.

Each of the following shall be an event of default of the Sublandlord:

- (a) failure to provide the Bill of Sale, Title Transfer, Proof of Good Standing or Proof of Discharge as required in Article 7;
- (b) failure to use best efforts to negotiate the assignment of the Lease and/or the characterization of the Equipment as Trade Fixtures within the Lease as set out in Article 7; or
- (c) failure to pass along any notice received from the Head Landlord to the Subtenant.

8.2 Remedies by Sublandlord

Upon any event of default of the Subtenant, in addition to any remedy which the Sublandlord may have by this Sublease or at law or in equity, the Sublandlord may, at its option:

- (a) provide, by notice to the Subtenant, that the current month's Rent and Rent for the next ensuing thirty (30) days shall thereupon become immediately due and payable; and/or
- (b) re-enter and take possession of the Premises as though the Subtenant is overholding after the expiration of the Term and the Term shall be terminated, forfeited and void in such event; and/or

- (c) enter the Premises as agent of the Subtenant, either by force or otherwise, without being liable for any prosecution therefor, and without being deemed to have terminated this Sublease, and relet the Premises or any part thereof as the agent of the Subtenant, and receive the rent therefor to be applied on account of the Rent; and/or
- (d) exercise its right of distress and the Subtenant hereby waives any present or future limitation on the Sublandlord's right of distress.

8.3 Additional Self-help Remedy of Sublandlord

In addition to all other remedies the Sublandlord may have by this Sublease, at law or in equity, if the Subtenant does not perform any of its obligations hereunder or commence to perform and with due diligence pursue, the Sublandlord may, at its option, perform any of such obligations, after fifteen (15) days, written notice to the Subtenant or in the case of an emergency, without notice, and all payments, expenses, charges, fees and disbursements incurred by the Sublandlord on the performance of any such obligations plus an administrative charge of fifteen percent (15%) of such amount shall be payable by the Subtenant as Rent to the Sublandlord forthwith on demand together with interest at the Rate of Interest, as defined in section 3.5, from the date of the performance of any of such obligations by the Sublandlord to the date of payment by the Subtenant.

8.4 Remedies by Subtenant

Upon any event of default of the Sublandlord, in addition to any remedy which the Subtenant may have by this Agreement or at law or in equity, the Subtenant may, at its option:

- (a) Approach the Head Landlord directly to negotiate an assignment and amendment of the Head Lease, using this Agreement as supporting evidence against the Sublandlord;
- (b) Approach any of the Sublandlord's lenders directly to seek the required proof of good standing and/or discharges; and
- (c) In either case, the Subtenant shall be capable of claiming all costs, damages and liabilities incurred as a result of the Sublandlord's default against the Sublandlord.

8.5 Legal Costs

The parties agree to pay, within fifteen (15) days after demand, all legal fees, on a solicitor and his own client basis, incurred by either party for the enforcement of any rights under this Agreement or in the enforcement of any of the provisions of this Agreement.

8.6 Remedies Cumulative

The parties may from time to time resort to any or all of the rights and remedies available to them in the event of any default hereunder by the other party, either by any provision of this Agreement, or by statute, or at law or in equity, all of which rights and remedies are intended to be cumulative and not alternative, and the express provisions hereunder as to certain rights and remedies are not to be interpreted as excluding any other or additional rights and remedies available to either party at law or in equity.

8.7 Non-Waiver

Any condoning, excusing or overlooking by either the Sublandlord or the Subtenant of any default by the other at any time or times in respect of any obligation of the other herein shall not operate as a waiver of

the non-defaulting party's rights hereunder in respect of such default or so as to defeat or affect in any way the rights of the non-defaulting party in respect of any such continuing or subsequent default by the defaulting party. No waiver shall be implied by anything done or omitted by a party. Any waiver of a particular default shall not operate as a waiver of any subsequent or continuing default.

ARTICLE 9: GENERAL PROVISIONS

9.1 Entire Agreement

This Sublease contains all of the terms and conditions of the agreement between the Sublandlord and the Subtenant relating to the matters herein provided and supersedes all previous agreements or representations of any kind, written or verbal, made by anyone in reference thereto, including without limitation the Original Sublease.

There shall be no amendment hereto unless in writing and signed by the party to be bound.

9.2 Schedules

The following Schedules to this Sublease form a part of this Sublease:

- Schedule A – Definition of Premises
- Schedule B – Additional Provisions
- Schedule C – PPSA Discharges

9.3 Planning Act

This Sublease is subject to compliance, if necessary, with the Planning Act, R.S.O 1990, c. P.13 of Ontario.

9.4 Survival of Obligations

Any obligation of a party which is unfulfilled on the termination of this Sublease shall survive until fulfilled.

9.5 Severability of Illegal Provision

If any provision of this Sublease is or becomes illegal or unenforceable, it shall during such period that it is illegal or unenforceable be considered separate and severable from the remaining provisions of this Sublease which shall remain in force and be binding as though the said provision had never been included.

9.6 Governing Law

This Sublease shall be governed by the laws applicable in the Province of Ontario.

9.7 Head Landlord Consent

This Sublease shall be conditional on confirmation of the Head Landlord's consent hereto.

9.8 Tenancy Only

Nothing contained herein shall be deemed to create any relationship between the parties hereto other than the relationship of sublandlord and subtenant.

9.9 Captions

The captions for articles and sections of this Sublease are for convenience only and are not to be considered a part of this Sublease and do not in any way limit or amplify the terms and provisions of this Sublease.

9.10 Time of Essence

Time shall be of the essence of this Sublease.

9.11 Notices and Consents

All notices, demands, requests or other instruments ("**Notices**") which may be or are required to be given under this Sublease shall be in writing and shall be delivered in person, delivered by e-mail at the e-mail address specified, or sent by prepaid registered Canadian mail or by recognized courier service, to the parties as follows:

(a) in the case of the Sublandlord, to:

3098 Merritt Avenue, Mississauga, ON L4T 1P3
 Attention: Saad Sheikh
 E-Mail: westeastinfo@yahoo.ca

(b) in the case of the Subtenant, to:

At the Premises
 Attention: Iftikhar Hossain
 E-Mail: info@jamunafoods.com

All such Notices shall be conclusively deemed to have been given and received upon the day the same is personally delivered or delivered by courier, and if delivered by e-mail the date the e-mail is sent, provided it is sent on a business day prior to 5:00 pm (ET) (excluding Saturdays, Sundays, holidays) and otherwise on the next business day after the date the e-mail is sent, and if delivered by registered mail as aforesaid, four (4) business days (excluding Saturdays, Sundays, holidays and days upon which regular postal service is interrupted or unavailable for any reason) after the same is mailed. Any party may at any time by notice in writing to the other change the address for service of Notice on it.

9.12 Assignment and Sublease

The Subtenant shall not assign this Sublease nor sublet or licence the Premises or any portion thereof without the prior consent of the Sublandlord, which may be unreasonably withheld. For greater certainty, where the Subtenant is a corporation not listed on a public stock exchange, any issuance, transfer, assignment, or transmission of shares of the Subtenant that results in any change of effective control of the Subtenant shall be deemed an assignment for the purposes of this paragraph.

9.13 Successors and Assigns

Except as otherwise specifically provided, the covenants, terms and conditions contained in this Sublease shall apply to and enure to the benefit of and bind the respective successors and permitted assigns of the parties hereto.

9.14 No Consent During Default

It shall not be unreasonable for the Sublandlord to withhold its consent at any time when the Subtenant is in default hereunder.

9.15 Further Assurances

Each party agrees to make such further assurances as may be reasonably required from time to time by the other to more fully implement the true intent of this Sublease.

9.16 Counterparts and Electronic Execution

This Sublease may be executed and delivered by counterparts and by facsimile or electronic transmission, and if so executed and delivered, each document shall be deemed to be an original, shall have the same effect as if each party so executing and delivering this Lease had executed the same copy of this Lease and all of which copies when taken together shall constitute one and the same document.

[Signature Page Follows]

IN WITNESS WHEREOF the parties hereto have executed this Sublease as of the date first above written.

SUBLANDLORD

9052526 CANADA INC. (o/a WestEast)

Per:



Name: Sheikh Sadalam

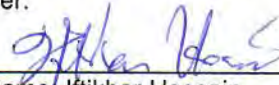
Title: Director

I have authority to bind the Corporation.

SUBTENANT

1890194 ONTARIO INC. (o/a Jamuna Foods)

Per:



Name: Iftikhar Hossain

Title: President

I have authority to bind the Corporation.



SCHEDULE "A"DEFINITION OF PREMISES

The "**Premises**" means Unit C042 in 760 Birchmount Road, Scarborough, Ontario, being approximately 8,363 square feet as defined in the Head Lease.



SCHEDULE "B"

ADDITIONAL PROVISIONS

Upon final acceptance of this Agreement and final discharge of all security against the Equipment, the Sublandlord shall use best efforts to negotiate an assignment of the Head Lease to the Subtenant.



SCHEDULE "C"**PPSA DISCHARGES**

1. 728017488 Lift Capital Corporation
2. 735958476 Toyota Industries Commercial Finance Canada Inc.
3. 736320933 Travelers Leasing Ltd.
4. 740035251 Toyota Industries Commercial Finance Canada Inc.
5. 754257249 The Toronto-Dominion Bank and TD Equipment Finance Canada
6. 754650639 The Toronto-Dominion Bank – 12712
7. 754685784 The Toronto-Dominion Bank – 12712
8. 762830271 Add Capital Corp.

This **SUBLEASE AND EQUIPMENT PURCHASE AMENDING AGREEMENT** is made on this 18th day of March 2021.

Between:

9052526 Canada Inc. (o/a WestEast)

(hereinafter called the "Sublandlord" or "WestEast")

-and-

1890194 Ontario Inc. (o/a Jamuna Foods)

(hereinafter called the "Subtenant" or "Jamuna")

WHEREAS:

The above Parties entered into **SUBLEASE AND EQUIPMENT PURCHASE AGREEMENT** dated 1st day of February 2021.

NOW THEREFORE FOR VALUABLE CONSIDERATION, and the mutual covenant and agreements hereon contained, the parties hereto agrees as follows:

1. The Sublandlord will honor all the obligations it has with regards to the premises until the month of August, 2023. At which time all dues will be paid off and Sublandlord will discharge all registered PPSA against the property.
2. In 2023 when all dues are paid off the Sublandlord will approach the Landlord to transfer the Lease to the Subtenant.

This Agreement shall be considered in accordance with and governed by laws of the Province of Ontario.

In witness thereof the parties hereto have executed this agreement of the date first above written.

SUBLANDLORD 9052526 CANADA INC. (o/a WestEast) Per:

SHEIKH, SAD ALAM

Name:

Title:

I have authority to bind the Corporation.

SUBTENANT 1890194 ONTARIO INC. (o/a Jamuna Foods) Per:

Iftikhar Hossain

Name: Iftikhar Hossain

Title: GM

I have authority to bind the Corporation

Appendix "G"



APPRAISAL OF WEST EAST CONSULTING

I#	QTY	PIC	DESCRIPTION	MODEL	S/N
1	1	1-7	WALKER IN FREEZER, DIMENSIONS (L,W,H) 76' X 48' X 16', 1 MAN DOOR, 1 DRIVE IN DOOR, (3) 3-FAN EVAPORATORS, (2) ROOF MOUNTED CONDENSERS, 2019	N/A	N/A
2	1	8-16	LOT OF PALLET RACKING	N/A	N/A
3	1	17	RAYMOND , 2500 LBS., 24 VOLT, BATTERY POWERED REACH TRUCK, 205" MAXIMUM LIFT	FASI-DR-25TT	ET-D-01-10118
4	1	18	CROWN , 2500 LBS, 24V, BATTERY POWERED, HIGH MAST, WALKIE, 154" MAXIMUM LIFT	ST300-25	5A552902
5	2	19-20	TOYOTA , 4500 LBS, 24V, BATTERY POWERED, WALKIE	8HBW23	268229 13960
6	1	21	FERRO , 48 VOLT, BATTERY CHARGER, 575/3/60	VFR24L510	MPI-259-307
7	1	22	CD TECHNOLOGIES , 24 VOLT, BATTERY CHARGER, 575/3/60	FR12L550A	CPIC9013378
8	1	23	EXIDE , 24 VOLT, BATTERY CHARGER, 575/3/60	6P12-3-800	128266
TOTAL					|

Appendix "H"



Tel: 905 524 1008
Fax: 905 570 0249
www.bdo.ca

BDO Canada Limited
25 Main Street West, Suite 805
Hamilton, Ontario
L8P 1H1 Canada

September 26, 2022

Via email: info@jamunafoods.com
And Courier

1890194 Ontario Inc. o/a Jamuna Foods
760 Birchmount Rd, Unit 42
Scarborough, ON M1K 1R7

Attention: Mr. Iftikhar Hossain

Dear Sir:

RE: 9052526 Canada Inc., in receivership

Please be advised that BDO Canada Limited is the court appointed receiver (the "Receiver") of 9052526 Canada Inc. ("9052526") pursuant to the Order of Justice Dietrich dated June 24, 2022 and the prior Order of Justice Cavanagh dated September 20, 2021. Copies of both orders are attached hereto.

We understand that you are the current occupant of Unit 42 located at 760 Birchmount Road, Scarborough, Ontario, pursuant to a sub-lease agreement dated February 1, 2021 between 1890194 Ontario Inc. ("1890194") and 9052526.

We are writing to advise that certain equipment (the "Equipment") located in Unit 42 is the property of 9052526 and thereby subject to the receivership.

The Equipment consists of the following:

- Walk-in freezer, 76'x 48'x16', 1 man door, 1 drive-in door, 3 3-fan evaporators, 2 roof mounted condensers and backup power supply
- Pallet racking
- Raymond 2500lbs 24 volt battery powered reach truck
- Crown 2500 lbs 24 volt battery powered high-mast walkie lift
- Toyota 4500 lbs 24 volt battery powered walkie
- Ferro 48volt battery charger
- CD Technologies 24 volt batter charger
- Exide 24 volt batter charger

We require access to Unit 42 to evaluate the Equipment as soon as possible. Our agent, Platinum Asset Services Inc. (Adam Moskowitz), will contact you to make suitable arrangements this week.

Further, should 1890194 wish to acquire the Receiver's interest in the aforementioned Equipment, you are invited to submit a written proposal as soon as possible, as the Receiver will be obligated to arrange for the removal of the equipment in the very near future.

Please contact the undersigned if you have any questions or are unable to comply with this request.

Yours truly,

BDO Canada Limited, court appointed receiver of
9052526 Canada Inc.

Per:

A handwritten signature in blue ink, appearing to read 'Peter Crawley', with a long horizontal flourish extending to the right.

Peter Crawley, MBA, CPA, CA, CIRP, LIT
Vice-President

Cc: Graham Phoenix, Loopstra Nixon LLP, counsel to the Receiver

Encl.

Court File No. CV-21-00667820-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MADAME	)	FRIDAY, THE 24TH DAY
)	
JUSTICE DIETRICH	)	OF JUNE, 2022

B E T W E E N

THE TORONTO-DOMINION BANK

Applicant

-and-

9052526 CANADA INC.

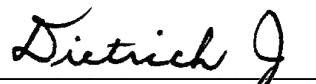
Respondent

ORDER

THIS MOTION, made by the Applicant, was heard this day by Judicial teleconference via Zoom at 330 University Avenue, Toronto, Ontario, Ontario.

ON READING the Motion Record of the Applicant dated May 31, 2022, the Appointment Order of the Honourable Justice Cavanagh dated September 20, 2021 (the “**Appointment Order**”) appointing BDO Canada Limited as Receiver over all Property (as defined in the Appointment Order) of the Respondent, the Ancillary Order of the Honourable Justice Cavanagh dated September 20, 2021, the Affidavit of Sanjay Kansal, sworn August 21, 2021, and the Exhibits thereto, the Affidavit of Sanjay Kansal, sworn September 17, 2021, and the Exhibits thereto, the Affidavit of Sanjay Kansal, sworn May 30, 2022, and the Exhibits thereto, the Factum of the Applicant dated June 7, 2022, the Preliminary Report dated June 23, 2022 filed by BDO Canada Limited in its capacity as proposed Receiver, and on hearing the submissions of counsel for the Applicant and all other parties in attendance, all properly served as it appears from the Affidavits of Service of Lindsay Ferguson dated May 31, 2022 and June 7, 2022, filed,

1. **THIS COURT ORDERS** that the Appointment Order in the herein Application be and is effective as against the Respondent, 9052526 Canada Inc., as at June 24, 2022.



Justice, Ontario Superior Court of Justice

Commercial List

THE TORONTO-DOMINION BANK

-and-

9052526 CANADA INC.

Applicant

Respondent

Court File No. CV-21-00667820-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at
Toronto, Ontario

ORDER

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

Timothy C. Hogan (LSO #36553S)
Robert Danter (LSO #69806O)

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

Solicitors for the Applicant,
The Toronto-Dominion Bank

Court File No. CV-21-00667820-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.	)	MONDAY, THE 20TH DAY
)	
JUSTICE CAVANAGH	)	OF SEPTEMBER, 2021

THE TORONTO-DOMINION BANK

Applicant

- and -

9052526 CANADA INC.

Respondent

**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 BDO Canada Limited as receiver and manager (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of 9052526 Canada Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day by judicial videoconference via Zoom, at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Sanjay Kansal sworn August 20, 2021 and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant, and counsel for the Respondent, no one else appearing, although duly served as appears from the affidavit of service Tayler Reiners sworn August 30, 2021 and the affidavit of service of Corey Taylor dated September 13, 2021, and on reading the consent of BDO Canada Limited to act as the Receiver, and on being advised that this Order is being obtained on an unopposed basis.

SERVICE

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

APPOINTMENT

2. THIS COURT ORDERS that, subject to the terms of the Ancillary Order of this Court made in the within Application and dated September 20, 2021, pursuant to section 243(1) of the BIA and section 101 of the CJA, BDO Canada Limited is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property").

RECEIVER'S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the 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* 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 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 \$100,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged

by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

23. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "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/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol.

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.

GENERAL

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

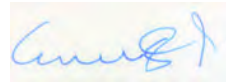
28. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

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

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

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

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



Digitally signed by
Mr. Justice Cavanagh

Justice, Ontario Superior Court of Justice

Commercial List

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that BDO Canada Limited, the receiver (the "Receiver") of the assets, undertakings and properties of 9052526 Canada Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ___ day of _____, 20__ (the "Order") made in an action having Court file number __-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

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

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

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

DATED the ____ day of _____, 20__.

BDO Canada Limited, solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

THE TORONTO-DOMINION BANK

v.

9052526 CANADA INC.

Applicant

Respondent

Court File No. CV-21-00667820-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

APPOINTMENT ORDER

HARRISON PENZA LLP
Barristers & Solicitors
450 Talbot Street
London, Ontario N6A 5J6

Timothy C. Hogan (LSO #36553S)
Robert Danter (LSO #69806O)

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

Solicitors for the Applicant,
The Toronto-Dominion Bank

Appendix "I"

September 27, 2022

Via email: Peter Crawley pcrawley@bdo.ca

BDO Canada Limited
25 Main St. West Suite 805
Hamilton ON L8P 1H1

Attn: Peter Crawley

Dear Sir:

Further to your letter dated Sep 26, 2022 I understand that you are the appointed receiver for 9052526 Canada Inc. (o/a Westeast). 1890194 Ontario Inc Sub-Leased the premises from 9052526 Canada Inc and conducting its business. There is no other relation between the 1890194 Ontario Inc and 9052526 Canada Inc.

We are writing advising you that all the Equipment listed below do not belong to 9052526 Canada Inc. as was mentioned in the letter, but are the sole property of 1890194 Ontario Inc. All the Equipment listed below located in the premises are paid for and purchased by 1890194 Ontario Inc.

The Equipment listed in your letter belongs to 1890194 Ontario Inc. and are consists of the following:

1. Walk-in Freezer with all the contents
2. Pallet racking
3. Raymond reach truck
4. Toyota walkie
5. Ferro battery charger
6. CD Technologies battery charger
7. Excide battery charger

I would request you not interrupt our business as we are not part of 9052526 Canada Inc. If you need further information please contact me.

Best Regards

Iftikhar Hossain
General Manager
Ph: 416 705 2153

Appendix "J"

Crawley, Peter

From: Jamuna Foods <info@jamunafoods.com>
Sent: September 28, 2022 4:55 PM
To: Crawley, Peter
Cc: Phoenix, Graham; West East
Subject: Re: [EXT] Re: 9052526 Canada Inc. (o/a WestEast)

Mr. Crawley,

As far I remember no one ever asked me about the site visits. Lots of people including Saad have access to the unit and I don't know who comes and as well I am not here everyday of the week. I would request you to clarify with Saad your concerns if he has made any arrangements without my knowledge.

For your information whatever is in the premises belongs to 1890194 Ontario Inc and owes nothing.

Thank You,

Jamuna Foods

Iftikhar Hossain

Phone: (416) 705-2153

Fax: (905) 248-3586

info@jamunafoods.com

On Tue, Sep 27, 2022 at 4:26 PM Crawley, Peter <pcrawley@bdo.ca> wrote:

Mr. Hossain,

Your letter contradicts everything that we have been told by Saad Sheikh and TD Bank thus far. Thus I must ask for proof of ownership of the specific items in question.

Note that our staff have been afforded site visits to your location on multiple occasions in the past 22 months, presumably with your permission as Saad made the arrangements.

Thank you for your cooperation.

Peter Crawley, MBA, CA, CPA, CIRP, LIT
Vice President, Business Restructuring & Turnaround Services
Financial Advisory Services
Direct: 289.678.0243

From: Jamuna Foods
Sent: September 27, 2022 1:37 PM
To: Crawley, Peter <pcrawley@bdo.ca>
Cc: Phoenix, Graham <gphoenix@loonix.com>; West East <westeastinfo@yahoo.ca>
Subject: [EXT] Re: 9052526 Canada Inc. (o/a WestEast)

Dear Mr. Peter Crawley,

Please see the attached.

Thank You,

Jamuna Foods

Iftikhar Hossain

Phone: (416) 705-2153

Fax: (905) 248-3586

info@jamunafoods.com

On Mon, Sep 26, 2022 at 3:20 PM Crawley, Peter <pcrawley@bdo.ca> wrote:

Dear Mr. Iftikhar Hossain,

Please see attached correspondence.

Thank you

Peter Crawley, MBA, CA, CPA, CIRP, LIT
 Vice President, Business Restructuring & Turnaround Services
 Financial Advisory Services
 Direct: 289.678.0243
[BDO Canada Limited](#)
 805-25 Main Street West

Hamilton, ON L8P 1H1

[SIGN UP FOR OUR NEWSLETTER](#)



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Appendix "K"

LANDLORD ACKNOWLEDGMENT AND WAIVER

TO: TD Equipment Finance Canada, a division of The Toronto-Dominion Bank ("TD Equipment Finance")
 2020 Winston Park Drive, Suite 301
 Oakville, ON L6H 6X7

DATE: August 9, 2019

RE: 760 BIRCHMOUNT RD, SCARBOROUGH ON M1K 5U8 (the "Premises")

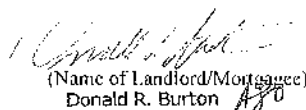

The Landlord hereby acknowledges that:

- (1) The Landlord is the owner of the Premises and the Landlord has entered into a lease dated December 18, 2018 (the "Lease") with 9052526 CANADA INC. (the "Tenant");
- (2) TD Equipment Finance has entered into or intends to enter into a loan agreement with the Tenant (the "Loan Agreement"), whereby it has or will finance to the Tenant the following equipment:

Description of the Equipment (the "Equipment")		
MAKE/MODEL	DESCRIPTION	SERIAL NUMBER
48 x 76 Freezer	c/w outdoor compressor with backup system	

- (3) The Equipment is or is intended to be located on or at the Premises;
- (4) The Equipment is owned by TD Equipment Finance; and
- (5) TD Equipment Finance is relying on this Landlord Acknowledgement and Waiver in entering into the Loan Agreement.

The Landlord specifically waives its rights to distraint, or enforce any lien or other security interest, against the Equipment and any proceeds derived from any dealing with such Equipment, in favour of any rights which TD Equipment Finance may now or hereafter have with respect to the Equipment. In the event of default by the Tenant under the Lease or its obligations to TD Equipment Finance under the Loan Agreement the Landlord agrees, upon receiving at least five (5) days advance written notice from TD Equipment Finance, to permit TD Equipment Finance and any party designated by TD Equipment Finance access to the Premises (provided TD Equipment Finance or such designated party presents reasonable proof that anyone entering the Premises carries commercial general liability insurance in such amounts as the Landlord may reasonably require) for the purpose of removing the Equipment for a period of up to ten (10) days from the day of notice. Subject to the foregoing, the Landlord hereby agrees to allow TD Equipment Finance or any party designated by TD Equipment Finance to remove the Equipment from the Premises at all reasonable times without interference, provided that TD Equipment Finance shall promptly repair any damage caused to the Premises by such removal, reasonable wear and tear excepted.


 (Name of Landlord/Mortgagee)
 Donald R. Burton 

Address: 1001 - 2 Bloor Street West,
 Toronto, ON M4W 3E2

Per: _____

Name & Title: Donald R. Burton
 Executive Vice President Asset Management

Appendix "L"

WESTEAST
A/R Aging Summary
As of July 15, 2022

	Current	1 - 30	31 - 60	61 - 90	91 and over	Total
Alkarim Foods Ltd.		7,420.15				7,420.15
Asian Food Centre		6,252.25	3,384.24			9,636.49
Bangla Bazar Supermarket		4,358.79				4,358.79
CJR WHOLESALE GROCERS		4,212.25				4,212.25
Edmonton Halal Meat		2,450.18				2,450.18
Gelda Foods / Gelda Scientific		165,084.00	38,465.18		7,087.50	210,636.68
Global Natural Food Canada Inc.			6,125.46			6,125.46
Goyal Impex Inc.		18,992.96	12,661.76			31,654.72
J&H Wholesale			4,276.50			4,276.50
Jamuna Foods-Rose		10,367.37	18,167.37	9,977.37		38,512.11
Loblaws INC		21,735.00	30,681.90			52,416.90
MAHMOOD DISTRIBUTORS INC		4,460.40	18,460.40	6,046.04		28,966.84
Marhaba Supermarket		9,158.24				9,158.24
Nishita Farm Fresh		6,086.20				6,086.20
Ontario Impex of Canada Inc.	5,053.28	8,253.28	3,453.28			16,759.84
Red Rose Halal Meat			5,685.11			5,685.11
Sing Hai Seafood Co. Ltd		18,194.40	22,394.40	2,464.00		43,052.80
SK Global Traders Limited		2,160.00				2,160.00
Taj Mahal Supermarket		9,180.00		3,018.00		12,198.00
Victoria Supermarket	23,360.40	98,712.00	112,212.00	38,745.00		273,029.40
TOTAL	\$ 28,413.68	\$ 397,077.47	\$ 275,967.60	\$ 60,250.41	\$ 7,087.50	\$ 768,796.66

Appendix "M"

WESTEAST

3098 Merritt Ave
 Mississauga ON L4T 1P3
 647-680-6331
 westeastinfo@yahoo.ca

INVOICE**BILL TO**

Victoria Supermarket
 1400 Victoria Park Avenue
 North York, M4A 2L8
 management@victoriasuperma
 rket.ca

INVOICE # 9260**DATE** 18-07-2022**DUE DATE** 31-10-2022

DESCRIPTION	QTY	RATE	TAX	AMOUNT
Fish Whole Whole Fish 20 Kg , 220 Carton	9,680	4.75	Exempt	45,980.00
Block Fish 500gm x 12 Pack /Carton 500gm x 12 Pack/ Carton	366	84.00	Exempt	30,744.00
Rani puffed rice 400 gm 400gm X 20Pcs /Carton	135	30.00	Exempt	4,050.00
Kala Chana 25kg/ 55LB Kala Chana 25kg/ 55LB	88	50.00	Exempt	4,400.00
Moong Dal Cleaned - Dehusked 25kg/ 55LB 25kg/ 55LB	61	58.00	Exempt	3,538.00

SUBTOTAL 88,712.00

TOTAL 88,712.00

BALANCE DUE **\$88,712.00**

WESTEAST

3098 Merritt Ave
 Mississauga ON L4T 1P3
 647-680-6331
 westeastinfo@yahoo.ca

INVOICE**BILL TO**

Victoria Supermarket
 1400 Victoira Park Avenue
 North York, M4A 2L8
 management@victoriasuperma
 rket.ca

INVOICE # 9261
DATE 27-07-2022
DUE DATE 15-12-2022
TERMS Due Date

DESCRIPTION	QTY	RATE	TAX	AMOUNT
Bulk Veg Samosa 40gm 40gm X 240 Pcs / Carton	516	32.40	Exempt	16,718.40
LAZEEZ SAMOSA 400 GM 400gm X 20 Pack / Carton	188	42.00	Exempt	7,896.00
Lazeez Singara (20pcs) 800gm Lazeez Singara (20pcs) 800gm X 12 Pack / Carton	172	48.00	Exempt	8,256.00
PRAN SAMOSA 400 GM 400GM (10 Pcs) X 20 PACK / CARTON	262	45.00	Exempt	11,790.00
Taza Frozen Bengali Vegetables 400gm Frozen Vegetable 400gm x 24 Pack / Carton	336	45.00	Exempt	15,120.00
LAZEEZ WHOLE OKRA 300GM 300GM X 30 PACK / CARTON	361	27.00	Exempt	9,747.00
Lazeez Shredded Coconut 300gm 300gm X 30 Pack / Carton	184	75.00	Exempt	13,800.00
Lazeez Karela Slice 300gm 300gm X 30 Pack / Carton	138	33.00	Exempt	4,554.00
LAZEEZ KALIJEER RICE 9 LB 9 LB X 4 BAG / CARTON	685	64.00	Exempt	43,840.00
Lazeez Chinigura 9 LB 9Lb X 4 Bags / Carton	285	64.00	Exempt	18,240.00
Rani minicate rice 9 lb 9 Lb x 4 / cartoon	65	48.00	Exempt	3,120.00
Pran Nazirshail Rice 5kg X 4 bags / Carton 5kg X 4 bags / Carton	225	48.00	Exempt	10,800.00

SUBTOTAL 163,881.40
 TOTAL 163,881.40
 BALANCE DUE **\$163,881.40**

WESTEAST

3098 Merritt Ave
 Mississauga ON L4T 1P3
 647-680-6331
 westeastinfo@yahoo.ca

INVOICE**BILL TO**

Victoria Supermarket
 1400 Victoira Park Avenue
 North York, M4A 2L8
 management@victoriasuperma
 rket.ca

INVOICE # 9262**DATE** 15-08-2022**DUE DATE** 31-01-2023**TERMS** Due Date

DESCRIPTION	QTY	RATE	TAX	AMOUNT
Ghoroaa Sella 40 LB 40 LB PER BAG	330	44.00	Exempt	14,520.00
Ghoroaa Basmati 40 LB 40 LB PER BAG	225	45.00	Exempt	10,125.00
MAZEDAR BASMATI 10LB x 4 Bags 10LB X 4 BAG/ CARTON	412	44.00	Exempt	18,128.00
Gur 1kg 1kg X 12 Pack / Carton	110	96.00	Exempt	10,560.00
PARATHA 2400 GM 2400 GM (30 Pcs) X 6 PACK /CARTON	465	36.00	Exempt	16,740.00
Spice 400gm 400gm x 24 Pack/ Carton	316	84.00	Exempt	26,544.00
Spice 200gm 200gm x 24 Pack / Carton	435	51.00	Exempt	22,185.00

SUBTOTAL 118,802.00

TOTAL 118,802.00

BALANCE DUE **\$118,802.00**

WESTEAST

3098 Merritt Ave
 Mississauga ON L4T 1P3
 647-680-6331
 westeastinfo@yahoo.ca

INVOICE**BILL TO**

Victoria Supermarket
 1400 Victoira Park Avenue
 North York, M4A 2L8
 4167501400
 Attn: Siddiqur

INVOICE # 9263**DATE** 26-08-2022**DUE DATE** 08-02-2023**TERMS** Due Date

DESCRIPTION	QTY	RATE	TAX	AMOUNT
Badshah Sella Basmati Rice 40lb Badshah Sella Basmati Rice 8Lb x 5	348	26.00	Exempt	9,048.00
Rani Premium Basmati Rice 10 LB Rani Creamy Sell Rice 10lb	265	9.00	Exempt	2,385.00
Fish Whole Whole Fish Hilsha 1200/1500, 20 kg , 42 Case	1,848	12.75	Exempt	23,562.00
PRAN PARATHA 2400 GM 2400 GM (30 Pcs) X 6 PACK /CARTON	310	36.82	Exempt	11,414.20
Lazeez Dal Puri (10pcs) 454gm Lazeez Dal Puri (10pcs) 454gm X 20 Pack / Carton	160	45.00	Exempt	7,200.00
Lazeez Aloo Puri (10pcs) 454gm Lazeez Aloo Puri (10pcs) 454gm X 20 Pack / Carton	78	35.00	Exempt	2,730.00
Toast Biscuit 350gm 350gm x 12 Pack / Carton	358	45.00	Exempt	16,110.00
Chanachur 300gm 300gm x 24 Pack / Carton	174	55.00	Exempt	9,570.00
Pickle 400gm 400gm x 12 Pack / Carton	286	30.00	Exempt	8,580.00
Pickle 1Kg 1kg x 12 Jar / Carton	149	48.00	Exempt	7,152.00
Rani Mustard Oil 1L Mustard Oil 1L x 12 Bottles / Carton	165	72.00	Exempt	11,880.00
ALIN LASCHA SEMAI 200 GM X 25 PCS 200 GM X 25 PCS / CARTOON (FOIL PACK)	75	41.25	Exempt	3,093.75
ALIN DRY CAKE 350 GM X 12 PCS 350 GM X 12 PCS / CARTOON (PAPER PACK)	65	35.40	Exempt	2,301.00

DESCRIPTION	QTY	RATE	TAX	AMOUNT
ALIN MUSTARD OIL 1000 ML X 12 PCS 1000 ML X 12 PCS / CARTOON (PLASTIC BOTTLE)	58	70.00	Exempt	4,060.00
ALIN CHIRA BHAJA 200 GM X 24 PCS 200 GM X 24 PCS / CARTOON (PLASTIC JAR)	68	44.40	Exempt	3,019.20
ALIN MUSTARD OIL 500 ML X 24 PCS 500 ML X 24 PCS / CARTOON (PLASTIC BOTTLE)	52	70.00	Exempt	3,640.00
Taza Lati (400gm x 24pcs) Taza Lati (400gm x 24pcs)	105	54.00	Exempt	5,670.00
Fish Whole 20kg, 975 carton	42,900	4.85	Exempt	208,065.00

SUBTOTAL 339,480.15

TOTAL 339,480.15

BALANCE DUE **\$339,480.15**

WESTEAST

3098 Merritt Ave
 Mississauga ON L4T 1P3
 647-680-6331
 westeastinfo@yahoo.ca

INVOICE**BILL TO**

Victoria Supermarket
 1400 Victoria Park Avenue
 North York, M4A 2L8
 management@victoriasuperma
 rket.ca

INVOICE # 9264**DATE** 02-09-2022**DUE DATE** 10-03-2023

DESCRIPTION	QTY	RATE	TAX	AMOUNT
Block Fish 500gm x 12 Pack /Carton 500gm x 12 Pack/ Carton	568	84.00	Exempt	47,712.00
Block Fish 250gm 250gm x 24 Pack / Carton	235	72.00	Exempt	16,920.00
Dry Fish 150gm 150gm x 24 Pack / Carton	165	75.00	Exempt	12,375.00
white pomfret 100/200 gm 20 kg per carton, 40 Case	1,760	9.50	Exempt	16,720.00
BD Hilsha 8/10 kg 20 kg per Case, 55 Case	2,420	10.25	Exempt	24,805.00
BD HILSHA 10/12 KG 20kg per Case, 70 Carton	3,080	11.50	Exempt	35,420.00
BD Hilsha 1200gm up 20 Kg per Case, 42 Carton	1,848	14.00	Exempt	25,872.00

SUBTOTAL 179,824.00

TOTAL 179,824.00

BALANCE DUE **\$179,824.00**

Appendix "N"



Tel: 905 524 1008
Fax: 905 570 0249
www.bdo.ca

BDO Canada Limited
25 Main Street West, Suite 805
Hamilton, Ontario
L8P 1H1 Canada

September 15, 2022

VIA EMAIL: management@victoriasupermarket.ca

Victoria Supermarket
1400 Victoria Park Avenue
North York, ON
L4T 1P3

Dear Sir or Madam,

Re: 9052526 CANADA INC. in Receivership

Please be advised that on June 24, 2022, BDO Canada Limited was appointed by the Court as Receiver (the "Receiver") of 9052526 Canada Inc. (the "Company"). A copy of the Appointment Order is attached hereto.

The books and records indicate that you are indebted to the Company in the amount of \$1,163,728.95 based on the Company's July 15, 2022 records and subsequent invoicing. This amount remains subject to verification.

In our capacity as Receiver, we are required to collect all outstanding accounts immediately. Accordingly, payment of your outstanding account is hereby demanded, and you are cautioned that payment to any party other than the Receiver will not discharge your liability.

Please make your cheque(s) payable to "*BDO Canada Limited, Receiver re: 9052526 Canada Inc.*" and forward payment to:

BDO Canada Limited
805-25 Main Street West
Hamilton, ON L8P 1H1
Attention: Glenn Harper

We thank you in advance for your anticipated cooperation. Should you wish to discuss this matter further, please contact the undersigned at (289) 678-0243.

Yours Truly,

BDO Canada Limited
in its capacity as Court-Appointed Receiver of
9052526 Canada Inc. and not in its personal or corporate capacity,
Per:

Peter Crawley, MBA, CPA, CA, CIRP, LIT
Vice President

Encl.

Court File No. CV-21-00667820-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MADAME	)	FRIDAY, THE 24TH DAY
)	
JUSTICE DIETRICH	)	OF JUNE, 2022

B E T W E E N

THE TORONTO-DOMINION BANK

Applicant

-and-

9052526 CANADA INC.

Respondent

ORDER

THIS MOTION, made by the Applicant, was heard this day by Judicial teleconference via Zoom at 330 University Avenue, Toronto, Ontario, Ontario.

ON READING the Motion Record of the Applicant dated May 31, 2022, the Appointment Order of the Honourable Justice Cavanagh dated September 20, 2021 (the “**Appointment Order**”) appointing BDO Canada Limited as Receiver over all Property (as defined in the Appointment Order) of the Respondent, the Ancillary Order of the Honourable Justice Cavanagh dated September 20, 2021, the Affidavit of Sanjay Kansal, sworn August 21, 2021, and the Exhibits thereto, the Affidavit of Sanjay Kansal, sworn September 17, 2021, and the Exhibits thereto, the Affidavit of Sanjay Kansal, sworn May 30, 2022, and the Exhibits thereto, the Factum of the Applicant dated June 7, 2022, the Preliminary Report dated June 23, 2022 filed by BDO Canada Limited in its capacity as proposed Receiver, and on hearing the submissions of counsel for the Applicant and all other parties in attendance, all properly served as it appears from the Affidavits of Service of Lindsay Ferguson dated May 31, 2022 and June 7, 2022, filed,

1. **THIS COURT ORDERS** that the Appointment Order in the herein Application be and is effective as against the Respondent, 9052526 Canada Inc., as at June 24, 2022.



Justice, Ontario Superior Court of Justice

Commercial List

THE TORONTO-DOMINION BANK

-and-

9052526 CANADA INC.

Applicant

Respondent

Court File No. CV-21-00667820-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at
Toronto, Ontario

ORDER

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

Timothy C. Hogan (LSO #36553S)
Robert Danter (LSO #69806O)

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

Solicitors for the Applicant,
The Toronto-Dominion Bank

Court File No. CV-21-00667820-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.	)	MONDAY, THE 20TH DAY
)	
JUSTICE CAVANAGH	)	OF SEPTEMBER, 2021

THE TORONTO-DOMINION BANK

Applicant

- and -

9052526 CANADA INC.

Respondent

**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 BDO Canada Limited as receiver and manager (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of 9052526 Canada Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day by judicial videoconference via Zoom, at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Sanjay Kansal sworn August 20, 2021 and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant, and counsel for the Respondent, no one else appearing, although duly served as appears from the affidavit of service Tayler Reiners sworn August 30, 2021 and the affidavit of service of Corey Taylor dated September 13, 2021, and on reading the consent of BDO Canada Limited to act as the Receiver, and on being advised that this Order is being obtained on an unopposed basis.

SERVICE

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

APPOINTMENT

2. THIS COURT ORDERS that, subject to the terms of the Ancillary Order of this Court made in the within Application and dated September 20, 2021, pursuant to section 243(1) of the BIA and section 101 of the CJA, BDO Canada Limited is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property").

RECEIVER'S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the 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* 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 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 \$100,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged

by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

23. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "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/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol.

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.

GENERAL

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

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

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

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

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

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



Digitally signed by
Mr. Justice Cavanagh

Justice, Ontario Superior Court of Justice

Commercial List

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that BDO Canada Limited, the receiver (the "Receiver") of the assets, undertakings and properties of 9052526 Canada Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ___ day of _____, 20__ (the "Order") made in an action having Court file number __-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

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

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

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

DATED the ____ day of _____, 20__.

BDO Canada Limited, solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

THE TORONTO-DOMINION BANK

v.

9052526 CANADA INC.

Applicant

Respondent

Court File No. CV-21-00667820-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

APPOINTMENT ORDER

HARRISON PENZA LLP
Barristers & Solicitors
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London, Ontario N6A 5J6

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Solicitors for the Applicant,
The Toronto-Dominion Bank

Appendix "O"



ROYAL BANK OF CANADA
P.O. BOX 4047 TERMINAL A
TORONTO ON M5W 1L5

Business Account Statement

RBDDA30000_6128666 E D 05762 00747
9052526 CANADA INC.
3098 MERRITT AVE
MISSISSAUGA ON L4T 1P3

June 24, 2022 to July 26, 2022

Account number: 05762 102-811-7

How to reach us:

Please contact your RBC Banking representative or call
1-800-Royal®2-0
(1-800-769-2520)
www.rbcroyalbank.com/business

Account Summary for this Period

RBC Ultimate Business™ account package

Royal Bank of Canada

1940 EGLINTON AVE E, SCARBOROUGH, ON M1L 4R1

Opening balance on June 24, 2022	\$12,104.50
Total deposits & credits (31)	+ 852,808.83
Total cheques & debits (125)	- 863,801.53
Closing balance on July 26, 2022	= \$1,111.80

Account Activity Details

Date	Description	Cheques & Debits (\$)	Deposits & Credits (\$)	Balance (\$)
	Opening balance			12,104.50
27 Jun	e-Transfer sent Najib Bhai Swapno bazar	837.00		
	e-Transfer sent Bhawja Sugarcane Veg	1,123.00		
	e-Transfer sent	3,000.00		
	e-Transfer sent Yousuf Bhai	5,000.00		
	e-Transfer sent MTFX	5,000.00		-2,855.50
	Deposit		16,000.00	
	Deposit		75,000.00	
	Misc Payment GELDA SCIENTIFI		56,298.60	
	ATM withdrawal - TM953413	1,000.00		
	ATM withdrawal - TN751766	1,000.00		
	Direct Deposits (PDS) service total PAY EMP-VENDOR	25,000.00		
	BR TO BR - 3032	15,000.00		



Business Account Statement ²¹³

June 24, 2022 to July 26, 2022
Account number: 05762 102-811-7

Account Activity Details - continued

Date	Description	Cheques & Debits (\$)	Deposits & Credits (\$)	Balance (\$)
27 Jun	BR TO BR - 3032	50,008.50		52,434.60
28 Jun	e-Transfer received MD ZIAUSH SHAMS CAGypqJm		2,096.94	
	e-Transfer sent Alsafa	505.00		
	e-Transfer sent Fasil Kerala 2021	1,500.00		52,526.54
	BR TO BR - 3032		40,625.00	
	Online Banking payment - 1980 TOYOTA FIN SVCS	249.23		
	Online Banking payment - 5001 MTFX INC.	65,000.00		
	BR TO BR - 3032	2,000.00		
	BR TO BR - 3032	5,000.00		20,902.31
29 Jun	ATM deposit - TJ248026		155.00	
	e-Transfer sent MTFX	600.00		
	e-Transfer sent Bhawja Sugarcane Veg	1,500.00		
	e-Transfer sent SAS	2,500.00		
	e-Transfer sent SAS	3,000.00		13,457.31
	Deposit 0002		24,000.00	
	ATM withdrawal - TJ248103	1,000.00		
	Direct Deposits (PDS) service total PAY EMP-VENDOR	10,000.00		
	BR TO BR - 3032	3,000.00		
	BR TO BR - 3032	5,000.00		
	BR TO BR - 3032	5,000.00		
	Online transfer sent - 0358 sad alam sheikh	220.00		
	Chq Printing Fee CHQ/DEP ORDER	91.21		
	Misc Payment 18004INTUIT	97.18		
	Insurance CERTAS H&A INS	154.42		
	Mortgage CIBC MTGE CORP MTG003351213.1	1,675.61		
	COMMERCIAL LOANS TD19009370 19009370	9,933.88		1,285.01
30 Jun	e-Transfer received GLOBAL NATURAL FOOD CANADA INC CA2KcqE4		972.00	
	e-Transfer sent SAS	50.00		
	e-Transfer sent Avrointermodal transport	720.00		
	e-Transfer sent Fasil Kerala 2021	900.00		587.01
	BR TO BR - 3032		11,900.00	
	Interac purchase - 9995 MOONLIGHT GROCE	200.00		
	BR TO BR - 3032	3,000.00		
	BR TO BR - 3032	7,500.00		1,787.01
04 Jul	ATM deposit - TJ248546		1,585.00	



ROYAL BANK OF CANADA
P.O. BOX 4047 TERMINAL A
TORONTO ON M5W 1L5

Business Account Statement

June 24, 2022 to July 26, 2022

Account number: 05762 102-811-7

Account Activity Details - continued

Date	Description	Cheques & Debits (\$)	Deposits & Credits (\$)	Balance (\$)
04 Jul	e-Transfer sent SAS	1,500.00		
	e-Transfer sent Siddique Bhai	5,000.00		-3,127.99
	Deposit 0004		11,714.40	
	BR TO BR - 3032		32,805.00	
	ATM withdrawal - T5306635	1,000.00		
	Pay Employee-Vendor EMLAdv003@00.25	0.75		
	Pay Employee-Vendor OFI003@00.85	2.55		
	Cash withdrawal	450.00		
	BR TO BR - 3032	2,000.00		
	Cash withdrawal	5,500.00		
	BR TO BR - 3032	5,500.00		
	BR TO BR - 3032	20,000.00		6,938.11
	Item returned unpaid S00341	11,900.00		
	Monthly fee	100.00		
	ATM cash deposited fee \$20155 CD @2.25M	45.34		
	In branch cash deposited fee \$39940 CD @2.50M	99.85		-5,207.08
05 Jul	e-Transfer sent cash and gold torbam	1,253.00		
	e-Transfer sent Bhawja Sugarcane Veg	2,000.00		
	e-Transfer sent Madhu Nepal	3,000.00		-11,460.08
	Deposit 0006		44,000.00	
	Online Banking payment - 1406 RBC MASTERCARD	950.00		
	Cash withdrawal	2,000.00		
	Cash withdrawal	3,990.00		
	Item returned unpaid fee	7.00		25,592.92
	Item returned unpaid S01564	4,450.00		21,142.92
06 Jul	e-Transfer sent Fasil Kerala 2021	900.00		
	e-Transfer sent SAS	3,700.00		16,542.92
	Deposit 0007		4,633.00	
	Cash withdrawal	3,400.00		
	Cash withdrawal	6,000.00		
	Item returned unpaid fee	7.00		
	Insurance INTACT INS. CO.	1,460.21		10,308.71
07 Jul	e-Transfer sent SAS	2,500.00		
	e-Transfer sent SAS	4,000.00		3,808.71
08 Jul	e-Transfer sent SAS	3,800.00		8.71
	Misc Payment GELDA SCIENTIFI		55,900.00	55,908.71



Business Account Statement ²¹⁵

June 24, 2022 to July 26, 2022
Account number: 05762 102-811-7

Account Activity Details - continued

Date	Description	Cheques & Debits (\$)	Deposits & Credits (\$)	Balance (\$)
11 Jul	e-Transfer sent MTFX	500.00		
	e-Transfer sent Anwar Designer	553.00		
	e-Transfer sent MTFX	3,000.00		51,855.71
	Deposit 0008		2,932.00	
	Deposit 0009		51,991.88	
	Interac purchase - 2969 VICTORIA SUPERM	1,000.00		
	Online Banking payment - 3753 MBNA-MASTERCARD	450.00		
	Direct Deposits (PDS) service total PAY EMP-VENDOR	15,000.00		
	Contactless Interac purchase - 4169 ISLAMIC RESEARC	50.00		
	Cash withdrawal	510.00		
	Cash withdrawal	15,008.50		
	Cash withdrawal	52,008.50		22,752.59
12 Jul	e-Transfer sent SAS	250.00		
	e-Transfer sent Saad westeastinfo	1,500.00		21,002.59
	Deposit		7,000.00	
	Online Banking payment - 0172 TOYOTA FIN SVCS	249.23		
	Cash withdrawal	26,000.00		1,753.36
13 Jul	e-Transfer received REGINA FOOD CORNER INC. CAsuDMjF		3,000.00	
	e-Transfer sent SAS	1,700.00		3,053.36
	Cheque - 194	50,000.00		-46,946.64
	Cheque returned NSF		50,000.00	3,053.36
14 Jul	e-Transfer sent Uganda Bob	800.00		
	e-Transfer sent Bhawja Sugarcane Veg	2,000.00		253.36
	Insurance INTACT INS. CO.	710.01		-456.65
	Item returned NSF		710.01	253.36
15 Jul	e-Transfer sent SAS	3,050.00		-2,796.64
	BR TO BR - 3032		4,820.00	
	Misc Payment GELDA SCIENTIFI		56,663.90	
	Interac purchase - 1419 COKE CANADA MOB	606.15		
	BR TO BR - 3032	49,968.50		8,112.61
18 Jul	e-Transfer received ALI NEWAZ KHAN CAkvnqzH		3,000.00	
	e-Transfer sent ashwin	45.00		
	e-Transfer sent SAS	1,950.00		
	e-Transfer sent Bhawja Sugarcane Veg	3,000.00		6,117.61



ROYAL BANK OF CANADA
P.O. BOX 4047 TERMINAL A
TORONTO ON M5W 1L5

Business Account Statement

June 24, 2022 to July 26, 2022

Account number: 05762 102-811-7

Account Activity Details - continued

Date	Description	Cheques & Debits (\$)	Deposits & Credits (\$)	Balance (\$)
18 Jul	Deposit 0011		26,300.00	
	Funds transfer credit TT MRS KAMIA KA		95,000.00	
	ATM withdrawal - T5308030	3,000.00		
	Online Banking payment - 3632 MTFX INC.	50,000.00		
	Cash withdrawal	2,300.00		
	Cash withdrawal	4,000.00		
	Cash withdrawal	32,008.50		
	Funds transfer fee TT MRS KAMIA KA	17.00		
	Debit Memo Client request to trsf from 05762 1028117 to 03032 5332515	5,000.00		31,092.11
19 Jul	e-Transfer sent SAS	3,000.00		
	e-Transfer sent SAS	5,000.00		23,092.11
	Deposit 0013		48,224.50	
	Online Banking payment - 9432 RBC MASTERCARD	5,000.00		
	Direct Deposits (PDS) service total PAY EMP-VENDOR	16,957.61		
	Insurance INTACT INS. CO.	400.56		
	Overdraft interest @ RBP+05.00%P.A	1.24		48,957.20
	Item returned unpaid S00706	4,800.00		44,157.20
20 Jul	e-Transfer sent	1,320.00		
	e-Transfer sent SAS	5,000.00		37,837.20
	Deposit 0014		45,562.50	
	Cash withdrawal	2,385.00		
	Cash withdrawal	60,008.50		
	Item returned unpaid fee	7.00		
	Cheque - 195	18,900.00		2,099.20
21 Jul	e-Transfer sent kamia	800.00		1,299.20
	Deposit 0015		40,400.00	
	ATM withdrawal - TN757674	1,500.00		
	Online Banking payment - 5739 RBC MASTERCARD	11,500.00		
	Online Banking payment - 2044 MTFX INC.	15,000.00		13,699.20
22 Jul	e-Transfer sent Bhawja Sugarcane Veg	1,808.00		11,891.20
	Deposit 0016		38,519.10	
	Cash withdrawal	33,008.50		17,401.80
25 Jul	e-Transfer sent Benazir Bhai	4,000.00		
	e-Transfer sent Benazir Bhai	5,000.00		
	e-Transfer sent SAS	5,000.00		3,401.80



Business Account Statement ²¹⁷

June 24, 2022 to July 26, 2022
Account number: 05762 102-811-7

Account Activity Details - continued

Date	Description	Cheques & Debits (\$)	Deposits & Credits (\$)	Balance (\$)
25 Jul	ATM withdrawal - TN758017	3,000.00		401.80
26 Jul	BR TO BR - 5522		1,000.00	
	Online Banking payment - 8369 ENBRIDGE GAS IN	200.00		
	NSF item fee 2 @ \$45.00	90.00		1,111.80
	Closing balance			1,111.80

Account Fees: \$376.49



ROYAL BANK OF CANADA
P.O. BOX 4047 TERMINAL A
TORONTO ON M5W 1L5

Business Account Statement

June 24, 2022 to July 26, 2022
Account number: 05762 102-811-7

Serial #: 194 Amount: \$50,000.00

9052526 CANADA INC.
WESTEAST
3038 MERRITT AVE
MISSISSAUGA ON L4T1P3

000194

DATE 2022-06-26
Y Y Y Y M M D D

PAY to the order of FAISAL ZAMAN \$ 50000.00
Fifty Thousand only

ROYAL BANK OF CANADA
EGLINTON & SPADINA BRANCH
1340 EGLINTON AVE. E.
SCARBOROUGH, ON M1E 4R1

9052526 CANADA INC.
WESTEAST

RE 1001-281 *FAZ*

#000194# #05762#003# 102#811#7#

13 JUL 2022
001 37852
795689070031890
26782-3068603

Printer ID# 1021

Endorsement - Signature or Stamp

BACKVERSO

Serial #: 195 Amount: \$18,900.00

9052526 CANADA INC.
WESTEAST
3038 MERRITT AVE
MISSISSAUGA ON L4T1P3

000195

DATE 2022-07-15
Y Y Y Y M M D D

PAY to the order of Two man Traders \$ 18900.00
Eighteen thousand nine hundred

ROYAL BANK OF CANADA
EGLINTON & SPADINA BRANCH
1340 EGLINTON AVE. E.
SCARBOROUGH, ON M1E 4R1

9052526 CANADA INC.
WESTEAST

RE 1001-281 *FAZ*

#000195# #05762#003# 102#811#7#

Virtual Endorsement
DSPACC: 1035310
DSPTR: 03032-003
CSID: 3222014436489703032
TXNID: 1
SCANSER: 173,080,457
ITEMSEQ: 2
CHANID: 003
APPCD: S900
TRANSIT: 03032
DSPCUR: CAD
TEFDT: 20/07/22
OPID: 314795712

Printer ID# 1021

Endorsement - Signature or Stamp

03032
BACKVERSO 1035310



ROYAL BANK OF CANADA
P.O. BOX 4047 TERMINAL A
TORONTO ON M5W 1L5

Business Account Statement

RBDDA30000_6758430 E D 05762 00765
9052526 CANADA INC.
3098 MERRITT AVE
MISSISSAUGA ON L4T 1P3

July 26, 2022 to August 26, 2022

Account number: 05762 102-811-7

How to reach us:

Please contact your RBC Banking representative or call
1-800-Royal®2-0
(1-800-769-2520)
www.rbcroyalbank.com/business

Account Summary for this Period

RBC Ultimate Business™ account package

Royal Bank of Canada

1940 EGLINTON AVE E, SCARBOROUGH, ON M1L 4R1

Opening balance on July 26, 2022	\$1,111.80
Total deposits & credits (42)	+ 286,470.94
Total cheques & debits (91)	- 294,181.51
Closing balance on August 26, 2022	= -\$6,598.77

Account Activity Details

Date	Description	Cheques & Debits (\$)	Deposits & Credits (\$)	Balance (\$)
	Opening balance			1,111.80
27 Jul	e-Transfer sent SAS	1,000.00		111.80
	Online transfer received - 9329 SAD ALAM SHEIKH		90.00	
	Deposit 0018		10,212.40	
	Cash withdrawal	6,600.00		3,814.20
28 Jul	e-Transfer sent kamia	3,500.00		
	e-Transfer sent kamia	3,550.00		-3,235.80
	BR TO BR - 3032		6,535.00	
	ATM withdrawal - TJ241236	3,000.00		299.20
29 Jul	ATM deposit - T5324379		300.00	
	e-Transfer received Westeast CAtpfZF		950.00	
	e-Transfer sent Jamsher Kerala	300.00		
	e-Transfer sent Bhawja Sugarcane Veg	2,200.00		-950.80



Business Account Statement ²²⁰

July 26, 2022 to August 26, 2022
Account number: 05762 102-811-7

Account Activity Details - continued

Date	Description	Cheques & Debits (\$)	Deposits & Credits (\$)	Balance (\$)
29 Jul	Online transfer received - 8321 SAD ALAM SHEIKH		958.00	
	Deposit 0020		18,500.00	
	Cash withdrawal	3,416.00		
	Misc Payment 18004INTUIT	97.18		
	Insurance CERTAS H&A INS	154.54		
	COMMERCIAL LOANS TD19009370 19009370	9,933.88		4,905.60
01 Aug	e-Transfer sent Halim Abdul	4,100.00		
	e-Transfer sent Benazir Bhai	5,000.00		-4,194.40
	Deposit 0021		14,237.50	
	ATM withdrawal - 11340215	63.99		
	ATM withdrawal - T5324841	2,900.00		
	ATM withdrawal - T5324695	3,000.00		
	INTERAC-SC-0215	2.00		
	Pay Employee-Vendor EMLAdv002@00.25	0.50		
	Pay Employee-Vendor OFI002@00.85	1.70		
	Cash withdrawal	4,000.00		
	Equipment Rent TOYOTA INDUSTRI	11.30		
	Insurance INTACT INS. CO.	750.01		-686.40
	Item returned NSF		750.01	
	Monthly fee	100.00		
	ATM cash deposited fee \$1885 CD @2.25M	4.24		
	In branch cash deposited fee \$75335 CD @2.50M	188.33		-228.96
02 Aug	ATM deposit - TM940444		1,100.00	
	e-Transfer received 2700367 ONTARIO INC CAukSuyc		1,950.00	
	e-Transfer sent kamia	1,020.00		1,801.04
	Deposit 0022		5,696.00	
	ATM withdrawal - T5308960	3,000.00		
	Cheque - 175	4,263.77		233.27
03 Aug	Deposit 0023		50,000.00	
	Online Banking payment - 9324 MTFX INC.	40,000.00		
	Cash withdrawal	1,000.00		
	Cash withdrawal	3,658.94		
	Cash withdrawal	5,000.00		
	Online transfer sent - 0849 sad alam sheikh	100.00		474.33
04 Aug	e-Transfer received 11347314 CANADA INC CAeCegej		400.00	



ROYAL BANK OF CANADA
P.O. BOX 4047 TERMINAL A
TORONTO ON M5W 1L5

Business Account Statement

July 26, 2022 to August 26, 2022
Account number: 05762 102-811-7

Account Activity Details - continued

Date	Description	Cheques & Debits (\$)	Deposits & Credits (\$)	Balance (\$)
04 Aug	e-Transfer received Westeast CAT4ESkc		3,000.00	
	e-Transfer sent Airport Cargo	102.00		
	e-Transfer sent Ashron shipping Montreal	365.54		
	e-Transfer sent Bhawja Sugarcane Veg	1,287.00		2,119.79
05 Aug	e-Transfer sent Jamsher Kerala	2,000.00		119.79
	Deposit 0024		1,351.25	1,471.04
08 Aug	e-Transfer received VICTORIA SUPERMARKET CAGqysfv		230.00	
	e-Transfer sent Bhawja Sugarcane Veg	1,000.00		
	e-Transfer sent SAS	1,470.00		
	e-Transfer sent Benazir Bhai	5,000.00		-5,768.96
	Online transfer received - 1439 SAD ALAM SHEIKH		500.00	
	Deposit		5,274.11	
	Deposit 0025		9,811.00	
	ATM withdrawal - T5326718	1,200.00		
	ATM withdrawal - TN751526	1,500.00		
	Cash withdrawal	3,000.00		
	Cash withdrawal	3,000.00		
	Insurance INTACT INS. CO.	1,460.21		-344.06
	Item returned NSF		1,460.21	1,116.15
09 Aug	e-Transfer sent Kulbir Eshpreglobal transport	525.00		591.15
	Online Banking transfer - 4080		500.00	
	Online Banking transfer - 7511		500.00	
	Online Banking payment - 7102 TOYOTA FIN SVCS	249.23		1,341.92
	Item returned unpaid S00668	3,600.00		
	Item returned unpaid S00669	4,100.00		-6,358.08
10 Aug	e-Transfer sent Bhawja Sugarcane Veg	1,300.00		-7,658.08
	Item returned unpaid fee	7.00		
	Item returned unpaid fee	7.00		-7,672.08
11 Aug	ATM deposit - TM941744		800.00	
	e-Transfer received 11347314 CANADA INC CAZmpTh8		5,000.00	-1,872.08
	Online transfer received - 9735 SAD ALAM SHEIKH		2,000.00	
	Deposit 0301		4,061.00	4,188.92
12 Aug	e-Transfer sent SAS	4,000.00		188.92
	Online transfer received - 6618 SAD ALAM SHEIKH		915.00	
	Online Banking transfer - 4082		500.00	



Business Account Statement ²²²

July 26, 2022 to August 26, 2022
Account number: 05762 102-811-7

Account Activity Details - continued

Date	Description	Cheques & Debits (\$)	Deposits & Credits (\$)	Balance (\$)
12 Aug	Deposit		9,666.00	
	Cash withdrawal	11,200.00		69.92
15 Aug	e-Transfer sent SAS	2,050.00		-1,980.08
	Online Banking transfer - 8817		500.00	
	Deposit 0302		7,230.00	
	Cash withdrawal	5,000.00		749.92
16 Aug	e-Transfer received Everyday Grocery - Winnipeg CAUt854J		3,000.00	
	e-Transfer sent amira	450.00		3,299.92
	Deposit 0303		24,730.00	
	Cash withdrawal	5,300.00		
	Cash withdrawal	17,000.00		5,729.92
	Item returned unpaid S00558	1,980.00		
	Item returned unpaid S00559	2,450.00		
	Item returned unpaid S00560	2,800.00		-1,500.08
17 Aug	Item returned unpaid fee	7.00		
	Item returned unpaid fee	7.00		
	Item returned unpaid fee	7.00		
	Overdraft interest @ RBP+05.00%P.A	3.79		-1,524.87
18 Aug	Insurance CERTAS H&A INS		212.84	-1,312.03
19 Aug	BR TO BR - 5922		1,315.00	
	Misc Payment GELDA SCIENTIFI		58,055.16	
	Insurance INTACT INS. CO.	400.56		57,657.57
22 Aug	e-Transfer sent Hong and Art	1,057.68		56,599.89
	Online transfer received - 0881 SAD ALAM SHEIKH		200.00	
	Deposit 0304		7,475.00	
	Online Banking payment - 1929 CDN TIRE MC	150.00		
	Online Banking payment - 8606 CDN TIRE MC	150.00		
	Online Banking payment - 8762 MBNA-MASTERCARD	250.00		
	Online Banking payment - 0738 RBC MASTERCARD	350.00		
	Cash withdrawal	19.90		
	Cash withdrawal	38,868.00		24,486.99
23 Aug	e-Transfer sent Bhawja Sugarcane Veg	1,824.00		22,662.99
	Online Banking payment - 9906 TOYOTA FIN SVCS	249.23		
	Cash withdrawal	3,000.00		
	Cash withdrawal	4,000.00		



ROYAL BANK OF CANADA
P.O. BOX 4047 TERMINAL A
TORONTO ON M5W 1L5

Business Account Statement

July 26, 2022 to August 26, 2022

Account number: 05762 102-811-7

Account Activity Details - continued

Date	Description	Cheques & Debits (\$)	Deposits & Credits (\$)	Balance (\$)
23 Aug	Cash withdrawal	9,744.95		5,668.81
24 Aug	Insurance INTACT INS. CO.	1,500.21		4,168.60
25 Aug	e-Transfer received EVERYDAY GROCERIES LTD. CAMZJAm2		3,000.00	
	e-Transfer sent Jasim Bhai Swopno bazar	2,000.00		5,168.60
	Deposit 0305		8,810.00	
	Cash withdrawal	2,150.00		
	Cash withdrawal	9,000.00		
	Online transfer sent - 8869 sad alam sheikh	400.00		2,428.60
26 Aug	e-Transfer sent Bhawja Sugarcane Veg	775.00		
	e-Transfer sent kamia	1,600.00		53.60
	Deposit 0306		14,695.46	
	Online Banking payment - 5133 WALMART MC	50.00		
	Direct Deposits (PDS) service total PAY EMP-VENDOR	10,500.00		
	Insurance INTACT INS. CO.	707.83		
	Cheque - 196	10,000.00		
	NSF item fee 2 @ \$45.00	90.00		-6,598.77
	Closing balance			-6,598.77

Account Fees: \$421.77



Business Account Statement

224

July 26, 2022 to August 26, 2022
Account number: 05762 102-811-7

Serial #: 175

Amount: \$4,263.77

9052528 CANADA INC. 000175
WESTEAST
3098 MERRITT AVE
MISSISSAUGA, ON L4T1P3 DATE 2022-07-29
Y Y Y Y M M D D

PAY to ASR CARGO SYSTEMS INC \$ 4263.77/-
the order of
Four thousand two hundred sixty three only 77 DOLLARS

ROYAL BANK OF CANADA
EGLINTON & WARDEN BRANCH
1940 EGLINTON AVE. E.
SCARBOROUGH, ON M1L 0R1

9052528 CANADA INC.
WESTEAST

RE 3759/3769/3956/4071/4114 PER *[Signature]*

000175 *05762*003* 102=811=7*

MREF 224558269066 Printer ID# 1021
193B2-002 2144727

9052528 CANADA INC.
HIGHWAY #10 & EGLINTON

50-Jul-2022
2144727 18382-002
86482 0016411

Enforcement - Signature or Stamp
ASR Cargo Systems Inc
7 - 6305 Northern Dr
Mississauga, ON L4V 1W9
88462 0016411

BACKVERSO

62022-002 BNS
CIBC 1000000 ON
02-08-2022
2228085042

Serial #: 196

Amount: \$10,000.00

9052526 CANADA INC. 000196
WESTEAST
3098 MERRITT AVE
MISSISSAUGA ON L4T1P3 DATE 2022-08-24
Y Y Y Y M M D D

PAY to SIDDIQUR RAHMAN \$ 10,000.00
the order of
Ten thousand only 00 DOLLARS

ROYAL BANK OF CANADA
EGLINTON & WARDEN BRANCH
1940 EGLINTON AVE. E.
SCARBOROUGH, ON M1L 0R1

9052526 CANADA INC.
WESTEAST

RE PER *[Signature]*

000196 *05762*003* 102=811=7*

Virtual Endorsement
DSPACC:
DSPTR:
CSID: 2222356299196105762
TXNID: 173184387
SCANED: 173184387
ITMSEQ: 1-26C
CHAMP: 003
APP: 000
TRAC: 05762
DSPCL: 000
TRFL: 08/26/22
OPI: 266086628

Printer ID# 1021

Enforcement - Signature or Stamp
[Signature]
05762 5137385

BACKVERSO



Current Account (8117)

Current Account (8117)

Current Balance: \$9,901.38	Available Balance: \$9,901.38	Authorized Overdraft: \$0.00
--------------------------------	----------------------------------	---------------------------------

Transactions As of Sep 14, 2022

DESCRIPTION	WITHDRAWALS	DEPOSITS	BALANCE
Sep 1, 2022			\$9,901.38
In branch cash deposited fee \$3835 CD @2.50M	-\$9.58		
ATM cash deposited fee \$9275 CD @2.25M	-\$20.86		
Monthly fee	-\$100.00		
Pay Employee-Vendor RBC002@00.85	-\$1.70		
e-Transfer sent Fouiz kerala	-\$875.00		
e-Transfer sent SAS	-\$400.00		
Aug 31, 2022			\$11,308.52
Deposit 0308		\$4,400.00	
Online Banking transfer - 6569	-\$50.00		
Cash withdrawal	-\$5,050.00		
Cash withdrawal	-\$4,950.00		
Cash withdrawal	-\$4,400.00		
e-Transfer sent Airport Cargo	-\$60.00		

e-Transfer received VICTORIA SUPERMARKET CAmSTScM	\$2,000.00
e-Transfer received EVERYDAY GROCERIES LTD. CAN6qSTc	\$1,065.00
e-Transfer received CAQ5bW8c	\$472.00
ATM deposit - T5321116	\$7,375.00

Showing 16 of 16 transactions

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Appendix "P"



October 5, 2022

VIA EMAIL (pcrawley@bdo.ca)

BDO CANADA LIMITED
805-25 Main Street West
Hamilton, ON L8P 1H1
Attn: Peter Crawley, Vice President

Dear Mr. Crawley:

Re: Review of security held by The Toronto-Dominion Bank (“TD” or the “Lender”) as against 9052526 Canada Inc. (the “Debtor”)

At your request, we have reviewed the security granted by the Debtor to TD. We undertake the analysis herein with a view to forming an opinion as to the enforceability of the security as against the personal property of the Debtor situated in Ontario.

This report is provided solely for the benefit of BDO Canada Limited, in its capacity as Court-appointed receiver of the Debtor (the “Receiver”) and may not be used or relied upon by any other person or for any other purpose without our prior express written consent.

Loan Documents

The Letter Agreement

We have reviewed a copy of a letter agreement between TD and the Debtor dated August 20, 2019 (the “Letter Agreement”). Such copy was included in TD’s application record in support of its application to appoint the Receiver (the “Application Record”) and we have assumed the same to be a true and complete copy of the Letter Agreement.

Pursuant to the Letter Agreement, TD made an operating loan available to the Debtor in the principal amount of CAD \$550,000. The line may be drawn on as required, subject to disbursement conditions, and bears interest at a rate of TD Prime + 2.4% per annum. There is no set term, but the facility renews annually for a fee of CAD \$1,000.

The Letter Agreement is executed on behalf of the Debtor by Sad Alam Sheikh, identified as President and Officer. We have assumed that the Letter Agreement has been executed by the appropriate person, within the scope of the authority of such person, that value was advanced

Woodbine Place, 135 Queens Plate Drive, Suite 600, Toronto, Ontario, Canada M9W 6V7
Tel: 416.746.4710 Fax: 416.746.8319 loopstranixon.com

LawExchange
INTERNATIONAL



by TD to the Debtor thereunder; and, that the Letter Agreement represents a valid and subsisting obligation of the Debtor to TD.

Equipment Loan Agreement

We have reviewed a copy of a loan agreement (#19009370) between TD and the Debtor dated August 8, 2019, for the purpose of financing the acquisition of certain equipment (the “**Equipment Loan Agreement**”). Such copy was included in TD’s Application Record, and we have assumed the same to be a true and complete copy of the Equipment Loan Agreement.

Pursuant to the Equipment Loan Agreement, TD provided a loan to the Debtor in the principal amount not to exceed CAD \$434,000. The loan was to be advanced in a single draw, subject to disbursement conditions, and to bear interest at a fixed rate of 4.99% per annum, with a term of 48 months, repayable in monthly instalments of \$59,933.88.

The Equipment Loan Agreement is executed on behalf of the Debtor by Sad Alam Sheikh, identified as President and Officer. We have assumed that the Equipment Loan Agreement has been executed by the appropriate person, within the scope of the authority of such person, that value was advanced by TD to the Debtor thereunder; and, that the Equipment Loan Agreement represents a valid and subsisting obligation of the Debtor to TD.

Forbearance Agreement

We have reviewed a copy of a forbearance agreement between TD and the Debtor dated May 31, 2021 (the “**FBA**”). Such copy was included in TD’s Application Record, and we have assumed the same to be a true and complete copy of the Equipment Loan Agreement.

Pursuant to the FBA, the Debtor acknowledges and agrees, *inter alia*, that:

- (a) as at May 10, 2021, the Debtor is indebted to TD in under the Letter Agreement in the amount of \$555,033.01, plus accrued interest, TD’s reasonable legal fees and other professional costs;
- (b) the Letter Agreement and all related security documentation is valid and binding on the Debtor; and
- (c) the Debtor is in default of their obligations to TD.

Under the FBA, the Debtor had until August 31, 2021 to refinance its indebtedness to TD, failing which TD may enforce the debt and its security, including by way of a court-appointed receivership (on the consent of the Debtor). TD is also entitled to enforce its debt and security in the event of other events of default (as set out in the FBA).

The FBA appears to have been executed on behalf of the Debtor by Sad Alam Sheikh. We have assumed that the FBA has been executed by the appropriate persons, within the scope of the authority of such persons; that adequate consideration has been exchanged between the Lender

and the Debtor connected thereto; and, that the FBA represents valid and subsisting obligations of the Debtor to TD.

NOTE: The equipment loan is not referenced in the FBA.

The Letter Agreement, Equipment Loan Agreement and FBA are hereinafter, collectively, referred to as the “**Loan Documents**”.

The Security Documents

General Security Agreement

As security for its obligations to TD, the Debtor executed a general security agreement dated August 7, 2019 (the “**GSA**”). We have reviewed a copy of the GSA, which was included in TD’s Application Record, and we have assumed the same to be a true and complete copy of the GSA.

Pursuant to the GSA, as security for “*the payment and performance of all present and future obligations of the Grantor [the Debtor] to the Bank [TD], including all debt and liabilities, direct or indirect, absolute of contingent, mature or note, wheresoever and howsoever incurred*”, the Debtor grants a security interest in favour of TD in all of its existing and after-acquired personal property

The GSA appears to be executed on behalf of the Debtor by Sad Alam Sheikh. We have assumed that the GSA has been executed by the appropriate persons, within the scope of the authority of such persons; that adequate consideration has been exchanged between the Lender and the Debtor connected thereto; and, that the GSA represents valid and subsisting obligations of the Debtor to TD.

NOTE: Although the GSA appears to have been executed in connection with the Letter Agreement, its general application to all debts and liabilities of the Debtor means that it would extend to secure all manner of indebtedness and liabilities of the Debtor to TD.

Security Agreement for Specified Assets

As security for its obligations to TD under the Equipment Loan Agreement, the Debtor has executed a security agreement for specified assets #19009370 dated August 8, 2019 (the “**SASA**”). We have reviewed a copy of the SASA, which was included in TD’s Application Record, and we have assumed the same to be a true and complete copy of the SASA.

Pursuant to the SASA, as security for “*the payment and performance of all present and future obligations of the Grantor [the Debtor] to the Bank [TD], including all debt and liabilities, direct or indirect, absolute of contingent, mature or note, wheresoever and howsoever incurred*”, the Debtor grants a security interest in favour of TD specifically over certain equipment, namely:

- 48 x 76 Freezer c//w outdoor compressor with backup system.

The SASA appears to be executed on behalf of the Debtor by Sad Alam Sheikh. We have assumed that the SASA has been executed by the appropriate persons, within the scope of the authority of such persons; that adequate consideration has been exchanged between the Lender and the Debtor connected thereto; and, that the SASA represents valid and subsisting obligations of the Debtor to TD.

NOTE: Although the SASA appears to have been executed in connection with the Equipment Loan Agreement, its general application to all debts and liabilities of the Debtor means that it would extend to secure all manner of indebtedness and liabilities of the Debtor to TD.

Additionally, in Application Record, TD's supporting affidavit refers to the SASA security as a PMSI. Such designation would depend on the date on which the Debtor took possession of the collateral equipment relative to the PPSA registration. We have no details on the same. However, we do not believe anything turns on whether TD has a PMSI in this collateral given that TD is the only party with a registered interests against the Debtor.

The GSA and SASA are hereinafter, collectively, referred to as the “**Security Documents**”.

Security Searches

A. Personal Property Security Search

We have obtained and reviewed a search under the *Personal Property Security Act* (Ontario) (“**PPSA**”) in respect of the Debtor, current to October 3, 2022. The searches discloses that TD is the only party holding registered interest against the Debtor, which registrations are detailed as follows:

- a registration in favour of TD against the Debtor in respect of “equipment” and “other” registered on August 9, 2019, under file no. 754257249 and registration no. 20190809 1008 1462 2602, expiring on August 9, 2024, in respect of specific collateral described as:
 - 48 X 76 FREEZER C/W OUTDOOR COMPRESSOR WITH BACKUP SYSTEM, TOGETHER WITH ALL ATTACHMENTS ACCESSORIES, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY SALE OR DEALINGS WITH THE COLLATERAL AND A RIGHT TO ANY INSURANCE PAYMENT OR OTHER PAYMENT THAT COMPENSATS FOR LOSS OR DAMAGE TO THE COLLATERLA OR PROCEEDS OF THE COLLATERAL.
- a registration in favour of TD against the Debtor in respect of “inventory”, “equipment”, “accounts”, “other” and “motor vehicle included”, registered on August 21, 2019, under

file no. 754650639 and registration no. 20190821 1934 1531 0200, expiring on August 21, 2024;

- a registration in favour of TD against the Debtor in respect of “accounts” and “other”, registered on August 22, 2019, under file no. 754685784 and registration no. 20190822 1438 1530 6646, expiring on August 22, 2024.

We have assumed that the information contained in the PPSA searches is correct, accurate and complete, and that monies or other consideration were advanced by TD to the Debtor, as applicable, such that the respective member of the Debtor acquired value from TD, such that the security interest granted and now held by TD under each of the aforementioned registrations attached and is perfected under prevailing laws, and continues to be so registered, attached and perfected as of the date hereof.

A copy of the PPSA search is attached hereto as Appendix “A”.

B. Real Property Searches

We have not been asked to review or assess any security interest in respect of any real property. Accordingly, we have not conducted searches of any real property in Ontario or elsewhere. Should you require any such inquiry, we can conduct the same upon request.

C. Bank Act Search

We have obtained a search certificate issued by the Authorized Section 427 Bank Act Registrar in respect of the Company, dated October 4, 2022, which indicates that no “Notice of Intention to Give Security” under section 427 of the *Bank Act* (Canada) has been filed in respect of the Debtor.

A copy of the PPSA search is attached hereto as Appendix “B”.

Assumptions and Qualifications

Specific Assumptions

- none.

Specific Qualifications

- none.

General Assumptions and Qualifications

- In addition to such other assumptions and qualifications set out herein, our review is subject to the general assumptions and qualifications set out in Appendix “C” attached hereto.



Conclusion

Subject to the assumptions and qualifications above and otherwise herein and those set out in the Appendix "C" hereto, it is our opinion that the security interests granted by the Debtor to TD under the GSA and SASA, as the concerns personal property of the Debtor situated in Ontario, are valid and enforceable as of the date hereof.

If you require any further assistance or have any questions in respect of the matters discussed herein, please do not hesitate to contact us.

Yours very truly,

A handwritten signature in blue ink that reads "Loopstra Nixon LLP".

LOOPSTRA NIXON LLP

E. & O. E.

Encl.



LOOPSTRA NIXON LLP
BARRISTERS AND SOLICITORS

APPENDIX "A"
PPSA SEARCHES
(see attached)

Enquiry Result

File Currency: 03OCT 2022







[Show All Pages](#)
Note: All pages have been returned.

Type of Search	Business Debtor								
Search Conducted On	9052526 CANADA INC.								
File Currency	03OCT 2022								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	736320933	1	5	1	16	09SEP 2022	D DISCHARGED		
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
736320933		001	3		20180207 1710 1902 6993	P PPSA	05		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	9052526 CANADA INC.								
	Address			City	Province	Postal Code			
	3098 MERRITT AVENUE			MISSISSAUGA	ON	L4T 1P3			
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	WESTEAST								
	Address			City	Province	Postal Code			
	3098 MERRITT AVENUE			MISSISSAUGA	ON	L4T 1P3			
Secured Party	Secured Party / Lien Claimant								
	TRAVELERS LEASING LTD.								
	Address			City	Province	Postal Code			
	800-9900 KING GEORGE BLVD			SURREY	BC	V3T 0K7			
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.			
	2014	FREIGHTLINER			M2	1FVACWDUXEHFT9804			
General Collateral Description	General Collateral Description								
	ONE (1) USED 2014 FREIGHTLINER M2 VAN BODY S/N 1FVACWDUXEHFT9804 C/W								
	ONE (1) THERMO KING T880R-30 REEFER UNIT S/N 3000197068 TOGETHER								
	WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS,								

Registering Agent	Registering Agent			
	AVS SYSTEMS INC.			
Address	City	Province	Postal Code	236
201 - 1325 POLSON DR.	VERNON	BC	V1T 8H2	

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	9052526 CANADA INC.						237		
File Currency	03OCT 2022								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	736320933	1	5	2	16	09SEP 2022	D DISCHARGED		
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
736320933		002	3		20180207 1710 1902 6993				
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
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								
	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								
	SUBSTITUTIONS, ADDITIONS, AND IMPROVEMENTS THERETO, AND ALL PROCEEDS								
	IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY SALE AND OR								
	DEALINGS WITH THE COLLATERAL OR PROCEEDS OF THE COLLATERAL AND A								
Registering Agent	Registering Agent								
	Address				City	Province	Postal Code		

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	9052526 CANADA INC.						238		
File Currency	03OCT 2022								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	736320933	1	5	3	16	09SEP 2022	D DISCHARGED		
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
736320933		003	3		20180207 1710 1902 6993				
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
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								
	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								
	RIGHT TO ANY INSURANCE PAYMENT OR OTHER PAYMENT THAT INDEMNIFIES OR								
	COMPENSATES FOR LOSS OR DAMAGE TO THE COLLATERAL OR PROCEEDS OF THE								
	COLLATERAL.								
Registering Agent	Registering Agent								
	Address				City	Province	Postal Code		

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	9052526 CANADA INC.								239
File Currency	03OCT 2022								
	File Number	Family	of Families	Page					of Pages
	736320933	1	5	4					16
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		001	1		20220909 1551 1465 9424				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	736320933			C DISCHRG					
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
	9052526 CANADA INC.								
Other Change	Other Change								
Reason / Description	Reason / Description								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	Address				City	Province	Postal Code		
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								
	ESC CORPORATE SERVICES LTD.								

	Address	City	Province	Postal Code
	445 KING STREET WEST, SUITE 400	TORONTO	ON 240	M5V 1K4

END OF FAMILY

Type of Search	Business Debtor								
Search Conducted On	9052526 CANADA INC.						241		
File Currency	03OCT 2022								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	740035251	2	5	5	16	05AUG 2022	D DISCHARGED		
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
740035251		01	003		20180601 1407 1462 3614	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	WESTEAST								
	Address				City	Province	Postal Code		
	350 HUMBERLINE DRIVE				ETOBICOKE	ON	M9W5S3		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
	10DEC1979	SAD			A	SHEIKH			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
	350 HUMBERLINE DRIVE				ETOBICOKE	ON	M9W5S3		
Secured Party	Secured Party / Lien Claimant								
	TOYOTA INDUSTRIES COMMERCIAL FINANCE CANADA, INC.								
	Address				City	Province	Postal Code		
	300 THE EAST MALL SUITE 401				TORONTO	ON	M9B6B7		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
			X		X				
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
	MATERIAL HANDLING EQUIPMENT TOGETHER WITH ALL PARTS, ATTACHMENTS, ACCESSORIES, ADDITIONS, BATTERIES, CHARGERS, REPAIR PARTS, AND OTHER EQUIPMENT PLACED ON OR FORMING PART OF THE GOODS DESCRIBED HEREIN								
Registering Agent	Registering Agent								
	PPSA CANADA INC. - (8154)								
	Address				City	Province	Postal Code		
	110 SHEPPARD AVE EAST, SUITE 303				TORONTO	ON	M2N6Y8		

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	9052526 CANADA INC.						242		
File Currency	03OCT 2022								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	740035251	2	5	6	16	05AUG 2022	D DISCHARGED		
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
740035251		02	003		20180601 1407 1462 3614	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
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								
	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								
	WITH ANY PROCEEDS THEREOF AND THEREFROM INCLUDING, WITHOUT LIMITATION, ALL GOODS, SECURITIES, INSTRUMENTS, DOCUMENTS OF TITLE, CHATTEL PAPER AND INTANGIBLES (AS DEFINED IN THE PERSONAL PROPERTY								
Registering Agent	Registering Agent								
	PPSA CANADA INC. - (8154)								
	Address			City	Province	Postal Code			
	110 SHEPPARD AVE EAST, SUITE 303			TORONTO	ON	M2N6Y8			

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	9052526 CANADA INC.							243	
File Currency	03OCT 2022								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	740035251	2	5	7	16	05AUG 2022	D DISCHARGED		
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
740035251		03	003		20180601 1407 1462 3614	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
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								
	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 SECURITY ACT)								
Registering Agent	Registering Agent								
	PPSA CANADA INC. - (8154)								
	Address				City	Province	Postal Code		
	110 SHEPPARD AVE EAST, SUITE 303				TORONTO	ON	M2N6Y8		

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	9052526 CANADA INC.								244
File Currency	03OCT 2022								
	File Number	Family	of Families	Page					of Pages
	740035251	2	5	8					16
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		01	001		20200113 1405 1462 9149				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	740035251			A AMNDMNT					
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
	WESTEAST								
Other Change	Other Change								
Reason / Description	Reason / Description								
	ADD AN ADDITIONAL DEBTOR								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	9052526 CANADA INC.								
	Address				City	Province	Postal Code		
	760 BIRCHMOUNT, UNIT 4				SCARBOROUGH	ON	M1K 1R		
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								
	TOYOTA INDUSTRIES COMMERCIAL FINANCE CANADA, INC.								

	Address	City	Province	Postal Code
	630 - 401 THE WEST MALL	TORONTO	ON 245	M9C5J5

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	9052526 CANADA INC.								246
File Currency	03OCT 2022								
	File Number	Family	of Families	Page					of Pages
	740035251	2	5	9					16
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		01	002		20201006 1702 1462 4698				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	740035251			A AMNDMNT					
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
	WESTEAST								
Other Change	Other Change								
Reason / Description	Reason / Description								
	ADD ADDITIONAL DEBTOR								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	9052526 CANADA INC.								
	Address				City	Province	Postal Code		
	3098 MERRITT AVE				MISSISSAUGA	ON	L4T1P3		
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								
	TOYOTA INDUSTRIES COMMERCIAL FINANCE CANADA, INC.								

	Address	City	Province	Postal Code
	630 - 401 THE WEST MALL	TORONTO	ON 247	M9C5J5

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	9052526 CANADA INC.								248
File Currency	03OCT 2022								
	File Number	Family	of Families	Page					of Pages
	740035251	2	5	10					16
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		02	002		20201006 1702 1462 4698				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	740035251			A AMNDMNT					
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
Other Change	Other Change								
Reason / Description	Reason / Description								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	9052526 CANADA INC.								
	Address				City	Province	Postal Code		
	350 HUMBERLINE DRIVE				ETOBICOKE	ON	M9W5S3		
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								
	TOYOTA INDUSTRIES COMMERCIAL FINANCE CANADA, INC.								

	Address	City	Province	Postal Code
	630 - 401 THE WEST MALL	TORONTO	ON 249	M9C5J5

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	9052526 CANADA INC.								250
File Currency	03OCT 2022								
	File Number	Family	of Families	Page					of Pages
	740035251	2	5	11					16
FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT									
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under	
		01	001		20220805 1701 1462 9260				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	740035251			C DISCHRG					
Reference Debtor/ Transferor	First Given Name			Initial	Surname				
	Business Debtor Name								
	WESTEAST								
Other Change	Other Change								
Reason / Description	Reason / Description								
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname			
	Business Debtor Name							Ontario Corporation Number	
	Address				City	Province	Postal Code		
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								
	TOYOTA INDUSTRIES COMMERCIAL FINANCE CANADA, INC.								

	Address	City	Province	Postal Code
	630 - 401 THE WEST MALL	TORONTO	ON 251	M9C5J5

END OF FAMILY

Type of Search	Business Debtor								
Search Conducted On	9052526 CANADA INC.						252		
File Currency	03OCT 2022								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	754257249	3	5	12	16	09AUG 2024			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
754257249		01	003		20190809 1008 1462 2602	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	9052526 CANADA INC								
	Address				City	Province	Postal Code		
	760 BIRCHMOUNT RD				SCARBOROUGH	ON	M1K5H8		
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								
	Address				City	Province	Postal Code		
	2020 WINSTON PARK DRIVE, SUITE 301				OAKVILLE	ON	L6H6X7		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
			X		X				
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
	48 X 76 FREEZER C/W OUTDOOR COMPRESSOR WITH BACKUP SYSTEM								
Registering Agent	Registering Agent								
	PPSA CANADA INC.								
	Address				City	Province	Postal Code		
	110 SHEPPARD AVE EAST, SUITE 303				TORONTO	ON	M2N6Y8		

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	9052526 CANADA INC.							253	
File Currency	03OCT 2022								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	754257249	3	5	13	16	09AUG 2024			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
754257249		02	003		20190809 1008 1462 2602	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
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								
	TD EQUIPMENT FINANCE CANADA, A DIVISION OF THE TORONTO-DOMINION BANK								
	Address				City	Province	Postal Code		
	2020 WINSTON PARK DRIVE, SUITE 301				OAKVILLE	ON	L6H6X7		
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								
	TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY SALE AND OR								
Registering Agent	Registering Agent								
	PPSA CANADA INC.								
	Address				City	Province	Postal Code		
	110 SHEPPARD AVE EAST, SUITE 303				TORONTO	ON	M2N6Y8		

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	9052526 CANADA INC.						254		
File Currency	03OCT 2022								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	754257249	3	5	14	16	09AUG 2024			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
754257249		03	003		20190809 1008 1462 2602	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
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								
	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								
	DEALINGS WITH THE COLLATERAL AND A RIGHT TO ANY INSURANCE PAYMENT OR OTHER PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO THE COLLATERAL OR PROCEEDS OF THE COLLATERAL.								
Registering Agent	Registering Agent								
	PPSA CANADA INC.								
	Address			City	Province	Postal Code			
	110 SHEPPARD AVE EAST, SUITE 303			TORONTO	ON	M2N6Y8			

END OF FAMILY

Type of Search	Business Debtor								
Search Conducted On	9052526 CANADA INC.						255		
File Currency	03OCT 2022								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	754650639	4	5	15	16	21AUG 2024			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
754650639		01	001		20190821 1934 1531 0200	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	9052526 CANADA INC.								
	Address				City	Province	Postal Code		
	760 BIRCHMOUNT RD				SCARBOROUGH	ON	M1K 5H8		
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 - 12712								
	Address				City	Province	Postal Code		
	20 MILVERTON DRIVE 1ST FL				MISSISSAUGA	ON	L5R 3G2		
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								
	D+H LIMITED PARTNERSHIP								
	Address				City	Province	Postal Code		
	SUITE 200, 4126 NORLAND AVENUE				BURNABY	BC	V5G 3S8		

END OF FAMILY

Type of Search	Business Debtor							256	
Search Conducted On	9052526 CANADA INC.								
File Currency	03OCT 2022								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	754685784	5	5	16	16	22AUG 2024			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
754685784		01	001		20190822 1438 1530 6646	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
	10DEC1979	SAD			A	SHEIKH			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
	3098 MERRITT AVE				MISSISSAUGA	ON	L4T 1P3		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	9052526 CANADA INC.								
	Address				City	Province	Postal Code		
	3098 MERRITT AVE				MISSISSAUGA	ON	L4T 1P3		
Secured Party	Secured Party / Lien Claimant								
	THE TORONTO-DOMINION BANK - 12712								
	Address				City	Province	Postal Code		
	20 MILVERTON DRIVE 1ST FL				MISSISSAUGA	ON	L5R 3G2		
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								
	D+H LIMITED PARTNERSHIP								
	Address				City	Province	Postal Code		
	SUITE 200, 4126 NORLAND AVENUE				BURNABY	BC	V5G 3S8		

LAST PAGE

Note: All pages have been returned.

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LOOPSTRA NIXON LLP
BARRISTERS AND SOLICITORS

APPENDIX "B"
BANK ACT SEARCH

Confirmation Letter / Lettre de confirmation**Teranet Collateral Management Solutions Corporation / Teranet Solutions de gestion des garanties**

Suite 200, 4126 Norland Avenue, Burnaby, BC V5G 3S8

Authorized Section 427 Bank Act Registrar / Bureau d'enregistrement autorisé conformément à l'article 427 de la *Loi sur les banques*.

2022/10/04 09:55:34 AM PDT

Dye & Durham Corporation
4610-199 Bay Street
Toronto, Ontario
M5L 1E9

Ref / Objet: 05339511

Tel/Tél: 1-416-964-2677
Fax/Télécopie: 1-416-923-1077
e-Mail/Courriel:

Acct#: 7129

Dear Sir / Madam

Monsieur / Madame

Re: **Bank Act Security - Section 427**Objet: **Garanties données en vertu de la *Loi sur les banques* - article 427**

We have processed your request(s) and hereby confirm the following results: (*see below).

Nous avons donné suite à votre (vos) demande(s) et nous vous faisons part des résultats suivants: (* voir ci-dessous).

REFERENCE

(2) A search has been made of the [notices of intention to give security](#) under the Bank Act registered in the province of [Ontario](#). As at the date and time above, our records indicate the following.

REFERENCE

(2) Nous avons examiné [les préavis](#) qui se rapportent aux garanties données en vertu de la *Loi sur les banques* et qui sont enregistrés pour la province de: [Ontario](#). À la date et à l'heure indiquées ci-dessus.

Your search for the company[9052526 CANADA INC.](#)

returns the following results:

Votre recherche pour la société[9052526 CANADA INC.](#)

révèle les résultats suivants:

Type	Registration Name Enregistrement au nom de	Address Adresse	Date	Number Numéro	Bank Banque
(2)	No matches were found / Aucune donnée correspondante au registre				



For Registrar / Pour le Régistrare

We acknowledge receipt of fees as follows:

Nous accusons réception des droits prescrits dont les montants s'établissent comme suit:

Type	Fee Tarif	GST/HST TPS/TVH	Qty Qté	TOTAL	Receipt No. Numéro du reçu
(2)	\$14.00	\$0.78	1	\$14.78	05339511 - R-R-SN-W
				\$14.78	

GST-HST / TPS-TVH #: 713 901 494 RT0001

APPENDIX “C”

GENERAL ASSUMPTIONS AND QUALIFICATIONS

Assumptions

For the purposes of the views expressed in the security review to which these general assumptions and qualifications are appended, we have made the following assumptions:

- (a) all signatures, including, without limitation, any electronic or digital signatures, are genuine, all documents submitted to us as originals are authentic, and all documents submitted to us as copies conform to authentic original documents;
- (b) that each of the documents provided to us was executed on the day appearing on each document as the date of the document or the date of execution;
- (c) the full legal capacity of those individuals signing any documents at all relevant times;
- (d) the documents and any amendments thereto that we have reviewed have not been otherwise amended or supplemented since execution;
- (e) other than as disclosed and discussed, no further registrations by the Lender were required to maintain perfected security interests under governing laws;
- (f) that the security interests granted by the Security Documents have attached;
- (g) the conduct of the parties to the documents has complied with any requirement of good faith, fair dealing and conscionability;
- (h) there are no agreements or understandings between any parties, written or oral, and there is no usage of trade or course of prior dealing between any parties that would, in either case, define, supplement or qualify the terms of the documents;
- (i) the accuracy and completeness of the records maintained by any office of public record;
- (j) that the funds purported to be advanced by pursuant to the Loan Documents and secured by the Security Documents have actually been advanced to the appropriate parties following or, as the case may be, in advance of the execution of the Loan Documents, and remain outstanding; and
- (k) there are no facts that would disentitle the Lender from relying on the “Indoor Management Rule” (if necessary and available under governing laws).

Qualifications

The views expressed in the security review to which these general assumptions and qualifications are appended are subject to the following qualifications:

- (a) the enforceability of the Loan Documents and the Security Documents may be limited by general principles of equity, and no opinion is given as to any specific remedy that may be granted, imposed or rendered (including equitable remedies such as specific performance and injunction);

- (b) no opinion is expressed as to title or the beneficial interest of any person in any property;
- (c) no opinion, other than expressly stated, is expressed regarding any security interests or registered or unregistered third-party claims which may rank in priority to the Lender's security interests;
- (d) no opinion, other than expressly stated, is expressed regarding the priority of the security interests discussed herein or their relative priority as between the Lender and any other creditor of the Company; and
- (e) the enforcement of the Letter Agreement and Leases, as amended from time to time, the Security Documents and Mortgages and any other documents held by the Lender or any judgment arising out of or in connection therewith may be limited by bankruptcy, insolvency, winding-up, reorganization, limitation of action, moratorium, fraudulent conveyance, assignments and preferences, or other laws affecting creditors' rights generally.

THE TORONTO-DOMINION BANK
Applicant

-and-

9052526 CANADA INC.
Respondent

262

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.43, AS AMENDED

Court File No. CV-21-00667820-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]

Proceedings commenced at TORONTO

FIRST REPORT OF BDO CANADA
LIMITED

LOOPSTRA NIXON LLP

135 Queens Plate Drive – Suite 600
Toronto, ON M9W 6V7

R. Graham Phoenix

LSO No.: 52650N

t. 416.748.4776

f. 416.746.8319

e. gphoenix@loonix.com

*Counsel to the Receiver, BDO Canada
Limited*

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.43, AS AMENDED

Court File No. CV-21-00667820-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]

Proceedings commenced at TORONTO

MOTION RECORD OF
BDO CANADA LTD., COURT-
APPOINTED RECEIVER
(returnable October 18, 2022 at 12:00noon
via Judicial Videoconference)

LOOPSTRA NIXON LLP
135 Queens Plate Drive – Suite 600
Toronto, ON M9W 6V7

R. Graham Phoenix
LSO No.: 52650N
t. 416.748.4776
f. 416.746.8319
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Limited*