

COURT FILE NUMBER 2101-08877  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY

Clerk's Stamp

PLAINTIFF ATB FINANCIAL

DEFENDANTS 732482 ALBERTA LTD., HAN SEUNG YOO, JAI HYUN YOO,  
HYE YOUNG YEO, JIN OK YEO, GAB BUN KIM, OK SOON  
KIM, SE JIN KIM, SUNG YEON KIM, YOUNG OK KIM and YO  
SUP KIM

DOCUMENT **FIRST REPORT OF THE RECEIVER  
BDO CANADA LIMITED  
OCTOBER 8, 2021**

ADDRESS FOR  
SERVICE AND  
CONTACT  
INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

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**FIRST REPORT OF THE RECEIVER  
BDO CANADA LIMITED  
OCTOBER 8, 2021**

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## INTRODUCTION

1. On September 3, 2021, ATB Financial (“**ATB**”) sought and obtained an Order (the “**Receivership Order**”) from the Court of Queen’s Bench of Alberta (the “**Court**”) appointing BDO Canada Limited (“**BDO**”) as receiver (the “**Receiver**”) of the current and future assets, undertakings and properties of 732482 Alberta Ltd. (the “**Company**”).
2. On July 19, 2021, Mr. Brian Spilchen of ATB filed an Affidavit (the “**Spilchen Affidavit**”) in support of ATB’s application for the appointment of a Receiver.
3. The purpose of this report (the “**First Report**”) is to provide this Honourable Court with:
  - a. Information pertaining to the Company, including its financial position and material assets;
  - b. Information regarding the Receiver’s former engagement as financial advisor to ATB in respect of the Company;
  - c. A summary of the material activities of the Receiver since the granting of the Receivership Order;
  - d. An overview of the sales process undertaken prior to the date of the Receivership Order in respect of the Hotel and Condo (each as defined herein), together with the Receiver’s further sale efforts, all of which led to the Receiver entering into purchase and sale transactions, conditional on, *inter alia*, Court approval, as follows:
    - i. Asset Purchase and Sale Agreement (the “**Hotel Purchase Contract**”) with 2377142 Alberta Ltd. (the “**Hotel Purchaser**”) dated October 7, 2021 (the “**Hotel Transaction**”); and
    - ii. Residential Resale Condominium Property Purchase Contract (the “**Condo Purchase Contract**”) with Emma Thomas (the “**Condo Purchaser**”) accepted September 20, 2021 (the “**Condo Transaction**”);
  - e. Details of a proposed distribution methodology as between Calvert Mortgage Investment Corporation (“**Calvert**”) and CRA in respect of its first ranking security interest and potential deemed trust security interest (if any) over the Condo, should the Court grant the requested relief; and
  - f. The Receiver’s recommendations in respect of the foregoing, as applicable.

4. Concurrent with the filing of this First Report, the Receiver will be filing a confidential supplement to the First Report (the “**Confidential Supplement**”) and an Affidavit of Mr. Dave Kadun of RE/MAX of Lloydminster (the “**Confidential Realtor Affidavit**”) detailing confidential and commercially sensitive information with respect to the sales processes and the Receiver’s comments with respect to its expectations of value, both of which would have a material effect on any subsequent transaction for the Hotel and Condo in the event that the conditional transactions do not close.
5. In the event that either the Hotel Transaction and/or the Condo Transaction do not close, the Hotel and/or Condo may be subject to further marketing and the Receiver’s ability to obtain the highest and best price would be severely compromised due to the confidential and commercially sensitive information being in the public domain. Disclosure of the information contained in the Confidential Supplement would cause irreparable prejudice to the creditors and other stakeholders of the Company. As a result, the Receiver will be seeking a further order sealing the Confidential Supplement until the Receiver files a certificate confirming that each transaction has closed, if this Court so grants such requested relief.
6. Capitalized terms not defined in this First Report are as defined in the Receivership Order or the Spilchen Affidavit, as the context may require.
7. All references to currency are in Canadian dollars unless otherwise noted.
8. This document, together with other information regarding these proceedings, will be posted by the Receiver to its website at: <https://www.bdo.ca/en-ca/extranets/732alberta/>

#### **TERMS OF REFERENCE**

9. In preparing this First Report, the Receiver has relied upon unaudited financial information and books and records of the Company and discussions with Licensed Realtors, ATB and Mr. Yosup Kim (“**Mr. Kim**”) in his capacity as former management of the Company (collectively, the “**Information**”). The Receiver has not performed an audit, review or other verification of this Information. Accordingly, the Receiver does not express an opinion or any other form of assurance on the information presented herein.
10. The Receiver assumes no responsibility or liability for any loss or damage occasioned by any party because of the circulation, publication, reproduction, or use of the First Report.



## FINANCIAL ADVISORY ENGAGEMENT

11. Prior to the granting of the Receivership Order, Hardie & Kelly Inc. (“**H&K**”) acted as financial advisor (the “**FA**”) to ATB in respect of the Company pursuant to an engagement letter (the “**FA Engagement**”) as between ATB and H&K, and consented to by the Company.
12. Following a merger between H&K and BDO, a revised engagement letter (the “**Amended FA Engagement**”) was entered into as part of a forbearance agreement between ATB and the Company. BDO’s scope of services contemplated in the Amended FA Engagement was expanded to, *inter alia*, include monitoring the sales process for the Hotel conducted by CBRE pursuant to its listing agreement with the Company, with updates to be provided to BDO directly from CBRE.
13. The FA Engagement and Amended FA Engagement each contain an acknowledgement that the Company would not object to the appointment of H&K / BDO and that H&K / BDO can be appointed as receiver, receiver and manager, agent, Trustee or otherwise of the Company and that such appointment shall not be a conflict of interest by virtue of H&K / BDO having been retained by ATB.

## CORPORATE STRUCTURE AND FINANCIAL POSITION

### *Corporate Structure*

14. A search of the Alberta Corporate Registry System as at September 7, 2021 indicates that the Company is a private company that was registered in Alberta on March 20, 1997 with the directors and shareholders being the parties listed as the Defendants in this matter.

### *Assets*

15. The Company’s material assets, as at the date of the Receivership Order, along with the respective unaudited book values for each, are summarized in the table below according to the Company’s incomplete books and records and / or as known to the Receiver.

<b>Asset</b>	<b>Book value</b>
Accounts Receivable	\$ 48,010
Hotel, land and building	3,948,949
Condominium	135,000
Vehicle	NA
	<u>\$ 4,131,959</u>

16. Further details on these assets are as follows:
- a. Accounts receivable – this relates to amounts owing at the date of the Receivership Order from corporate guests of the Hotel;
  - b. Hotel land and building – the Company’s most material asset is a 61 room limited service hotel (the “**Hotel**”) located at the civic address of 5610 44 Street, Lloydminster Alberta operating as the Ramada – Lloydminster through a franchise agreement with Wyndham Hotel Group Canada, ULC (“**Wyndham**”);
  - c. Condominium – this relates to a residential condominium located at the civic address of 112A 5101 18<sup>th</sup> Street, Lloydminster Alberta (the “**Condo**”); and
  - d. Vehicle – this relates to a 2018 Honda CRV (the “**Vehicle**”) for which Honda Canada Finance (“**Honda**”) holds a registered security interest.

*Liabilities*

**Creditors claiming a security interest**

17. Based on both a personal property registry search and land title searches of the Hotel and Condo dated September 7, 2021, the following creditors have registered security interests against the assets of the Company.

**ATB**

18. ATB registered security on May 28, 1997 in the Alberta Personal Property Registry (“**PPR**”) over all present and after-acquired personal property and a Land Charge over the real property of the Company.
19. ATB has registered the following mortgages at the Alberta Land Titles Registry:
- a. A mortgage registered against the Hotel on December 9, 2014 in the original principal amount of \$5,800,000; and
  - b. A mortgage registered against the Condo on March 5, 2021 with an original principal amount of \$223,500.
20. The Spilchen Affidavit affirms that as of July 16, 2021, the Company was indebted to ATB for at least \$5,202,943, plus accruing interest and costs.

Calvert Home Mortgage Investment Corporation

21. Calvert registered at the Alberta Land Titles Registry a first position collateral mortgage against the Condo on March 5, 2018, with an original principal amount of \$73,000. Based on a pay-out statement provided by Calvert, \$73,988.91 is owing as at October 1, 2021 with a \$20.03 per diem.

Honda Canada Finance Inc.

22. Honda registered a security agreement in the PPR on November 21, 2017 claiming a security interest over the Vehicle.

Blue Chip Leasing Corporation

23. Blue Chip Leasing Corporation registered a security agreement in the PPR on April 26, 2019 claiming a security interest over, *inter alia*, all telecommunications equipment financed by the secured party, as lessor, to the Company as lessee.

Canada Revenue Agency (“CRA”) – Source deductions and Goods and Services Tax

24. CRA registered a writ of enforcement in the PPR in the amount of \$79,787.59 on March 20, 2020.
25. The Receiver understands that amounts are likely to be owed to CRA in respect of the following:
- a. unremitted employee payroll withholdings; and
  - b. unremitted goods and services tax (“GST”), both which represent deemed trusts (with respect to GST, only in the event of no concurrent bankruptcy).
26. The Receiver has requested that CRA perform any necessary pre-receivership audits to verify the deemed trust amounts owing to CRA (if any).

Workers Compensation Board of Alberta

27. The Workers Compensation Board of Alberta (“WCB”) registered a charge in the PPR in the amount of \$17,357.04 on July 20, 201 claiming an interest in all present and after-acquired property.

### Receiver's Borrowings

28. As of the date of this First Report, ATB has advanced \$50,000 to the Receiver in the form of Receiver's Certificates subject to the Receiver's Borrowing Charge as defined in the Receivership Order providing priority over all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate to the Receiver's Charge and the charges set out in sections 14.06(7), 81.4(4) and 81.6(2) of the *Bankruptcy and Insolvency Act* (the "BIA").

### City of Lloydminster

29. Based on Statement of Accounts dated September 9, 2021, provided by the City of Lloydminster, the following amounts are owing with respect to property taxes:
- a. \$54,700 owing in respect of the Hotel; and
  - b. \$2,085 owing in respect of the Condo.

### Employee amounts

30. The Receiver is in the process of confirming amounts owing to employees in respect of super priority wages pursuant to section 81.4 of the BIA, if any, noting that certain of such amounts have been paid by the Company to solicit continued staffing and operations of the Hotel.

### Unsecured creditors

31. Based on the Company's incomplete books and records, approximately \$362,987 is estimated to be owing to the Company's unsecured creditors. As the Receiver does not anticipate there being funds available for unsecured creditors, it is unlikely that an unsecured claims process will be performed in this matter.

### ACTIVITIES OF THE RECEIVER

32. Subsequent to the granting of the Receivership Order, the Receiver has, *inter alia*:
- a. Attended to the Hotel to meet with employees, tour the property and complete other procedures with respect to obtaining custody and control;
  - b. Discussed and secured the cooperation of Mr. Kim in assisting in the continued non-financial operations of the Hotel;
  - c. Completed statutory notifications pursuant to Section 245(1) and 246(1) of the

BIA;

- d. Reviewed the adequacy of insurance coverage respecting the Hotel; advised the insurer of the Receivership and arranged for continued coverage in the Receiver's name;
- e. Obtained insurance in respect of the Condo as there was no insurance in place at the date of the Receivership Order;
- f. Administered, in consultation with Management, the accounts payable, human resources, accounts receivable and banking functions on behalf of the Company;
- g. Liaised with Management, employees, and trade creditors to respond to maintenance requirements and other operational activities on an as required basis, including the opening of new accounts in the name of the Receiver for continued operation of the Hotel;
- h. Liaised with Management to monitor and respond to evolving public health regulations impacting the Hotel arising from the COVID-19 Pandemic;
- i. Obtained information from the Company's former sales agent, Mr. Dave Kadun of RE/MAX of Lloydminster ("Mr. Kadun"), respecting the sales processes undertaken with respect to the Hotel and Condo;
- j. Contacted the City of Lloydminster to notify of the Receivership and confirm property taxes owing on both the Hotel and Condo;
- k. Corresponded with Wyndham to advise of the Receivership and to discuss the implications of the Receivership Order;
- l. Wrote to CRA to request new business accounts for the Receivership and request that an audit of pre-receivership amounts be conducted;
- m. Engaged Dentons Canada LLP ("**Dentons**") as legal counsel to the Receiver and commissioned legal opinions with respect to ATB's and Calvert's security;
- n. Negotiated and signed purchase and sale agreements in respect of the Hotel and Condo, each conditional upon, *inter alia*, the approval of this Honourable Court, as further discussed herein;
- o. Provided updates to stakeholders as required; and
- p. Attended to various other administrative matters as it pertains to the Receivership.

## PRE-RECEIVERSHIP MARKETING AND CONDITIONAL SALE AGREEMENTS

33. Paragraph 3(k) of the Receivership Order authorizes the Receiver to undertake the marketing of 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.
34. Furthermore, paragraph 3(l) of the Receivership Order authorizes the Receiver to sell, convey transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:
- a. Without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$350,000; and
  - b. 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.
35. As discussed herein, each of the Condo and the Hotel were subject to a sales process initiated by the Company prior to the Receivership Order, the non-commercially sensitive details of which are provided below and additional commercially sensitive details provided to this Honourable Court through the Confidential Supplement.

### *Hotel*

36. The Company had previously listed the Hotel for sale with Mr. Dave Kadun of RE/MAX of Lloydminster (“**Mr. Kadun**”) which Mr. Kadun advises commenced in October, 2018 (the “**Original Kadun Listing**”), the details and results of which are provided to the Court through the Confidential Realtor Affidavit and the Confidential Supplement, prior to the listing agreement expiring.

37. The Company, through the involvement of ATB, sought and obtained a proposal from two national commercial real estate firms with experience marketing and selling hotels to act as listing agent, the details and results of which are provided to the Court through the Confidential Supplement, leading to the Company executing a listing agreement with CBRE Limited (“**CBRE**”) on March 9, 2020.
38. Details of the marketing and results thereof from the CBRE listing agreement are provided to the Court through the Confidential Supplement.
39. Following the expiry of the CBRE listing agreement, without the knowledge of ATB or the FA, the Company again listed the Hotel for sale with Mr. Kadun, the details and results of which are provided to the Court through the Confidential Supplement and the Confidential Realtor Affidavit.
40. Through this second listing agreement with Mr. Kadun, the Company entered into an unconditional purchase and sale agreement with the Hotel Purchaser, however, was unable to consummate the transaction prior to the granting of the Receivership Order for the reasons disclosed in the Confidential Supplement.
41. Following discussions with ATB and Mr. Kim, upon the granting of the Receivership Order, the Receiver initiated discussions with Mr. Kadun, advising of the Receivership and seeking to continue dialogue with the Hotel Purchaser, together with amending the form of purchase and sale agreement into an agreement deemed satisfactory to the Receiver and appropriate for a receivership sale.
42. A copy of the Hotel Purchase Contract, with the commercially sensitive details redacted, is attached hereto as **Appendix “A”**, with *inter alia*, the following material terms:
  - a. Purchase Assets include the Hotel and specifically exclude, *inter alia*, the following:
    - i. Cash on hand;
    - ii. Accounts receivable;
    - iii. Contracts, licenses and permits that are not assignable, or that are assignable only with third party consent and such consent is not obtained;
    - iv. Specific lease referenced in Alberta Personal Property Registry under registration 17112104879 concerning a 2018 Hondo CRV; and
    - v. The Condo.

- b. Purchasers conditions – None;
  - c. Purchase price – [Redacted but will be provided to the Court through the Confidential Supplement];
  - d. Closing date defined as the fourteenth (14<sup>th</sup>) day following the date on which the Approval and Vesting Order is granted;
43. In the Receiver’s view, the sales processes undertaken by CBRE and Mr. Kadun were extensive, recent, met or exceeded industry standard and properly exposed the Hotel to the market. Based on the Receiver’s knowledge of the results of the respective sales processes, as described in the Confidential Supplement, the Receiver is supportive of and recommends the Court approve the Hotel Transaction, with the basis for the Receiver’s recommendations contained in the Confidential Supplement.

**Condo**

44. Through the FA Engagement, the Receiver was aware that the Condo was subject to a listing agreement with Mr. Kadun which Mr. Kadun advises initially commenced in March 2020, prior to expiring in October 2020 and then being relisted on June 16, 2021 with the details and results of such sales process being provided to the Court through the Confidential Supplement.
45. The aforementioned condo sales process ultimately lead to the Condo Purchase Contract that the Receiver entered into with Ms. Emma Thomas with *inter alia*, the following material terms.
- a. Purchased Assets include the Condo;
  - b. Conditional upon financing and a property inspection, to be satisfied by September 28<sup>th</sup> and September 30<sup>th</sup>, respectively, which conditions have been waived as of the date of this Report;
  - c. Deposit of \$3,000;
  - d. Purchase price – [Redacted but will be provided to the Court through the Confidential Supplement];
  - e. Closing date of 12:00 noon on the date that is the 15<sup>th</sup> day after the sale has been approved by the Court;



46. A copy of the Condo Purchase Contract with the commercially sensitive details redacted, is attached as **Appendix “B”**.
47. In the Receiver’s view, the sale process undertaken by Mr. Kadun was extensive, recent and properly exposed the Condo to the market in accordance with industry standards. Based on the Receiver’s knowledge of the results of the sale processes, as described in the Confidential Supplement, the Receiver is supportive of and recommends the Court approve the sale of the Condo, with the basis for the Receiver’s recommendations contained in the Confidential Supplement.

### **PROPOSED DISTRIBUTION**

48. As discussed above, various creditors with secured or other potential priority interests have been identified by the Receiver.
49. The Receiver has requested CRA provide necessary confirmation of its claims so that the Receiver can assess priorities.
50. The proposed orders for sale and vesting of the estate assets provide the Receiver authority to make distributions of sale proceeds without further order, but only after respective priorities of estate creditors have been determined and the Receiver has provided advance notice to affected creditors of its proposed distributions in this regard.
51. Given the quantum of the Calvert indebtedness, once the Receiver has received sufficient information to assess, with the assistance of its legal counsel, the respective priorities of CRA as against Calvert, the Receiver anticipates sending notice and making distributions of sale proceeds to Calvert and CRA.
52. Should any creditor dispute the Receiver’s proposed distributions, when that time comes, the proposed sales and vesting orders provide standard comeback provisions and any such disputes would accordingly be resolved by consent or would be returned for hearing by this Honourable Court.

### **SEALING ORDER APPLICATION**

53. The Confidential Supplement and Confidential Realtor Affidavit contain sensitive commercial information which in the Receiver’s view may seriously prejudice any subsequently reinstated sales process in the event that such reinstated sales process is necessary.

54. As a result, in order to protect the integrity of any reinstated sales process in the event that the Hotel Transaction or Condo Transaction do not close, the Receiver is requesting that this Honourable Court grant an order sealing the Confidential Supplement and the Confidential Realtor Affidavit until the Receiver files a certificate confirming that each of the Hotel Transaction and Condo Transaction have closed.
55. Counsel to the Receiver has advised that it will complete and submit a Notice to Media of Application to Restrict Access with respect to the Sealing Order being sought.

**RECOMMENDATIONS**

56. The Receiver respectfully recommends that this Honourable Court:
- a. Approve the activities of the Receiver as before the Court;
  - b. Approve the sale of the Hotel and the Condo substantially in the form of that contemplated by the Hotel Transaction and Condo Transaction;
  - c. Approve the proposed distribution methodology to Calvert and CRA; and
  - d. Approve the sealing of the Confidential Supplement and Confidential Realtor Affidavit.

All of which is respectfully submitted this 8<sup>th</sup> day of October, 2021.

**BDO Canada Limited**

In its capacity as Receiver of 732482 Alberta Ltd.  
and not in its personal or corporate capacity.

Per: 

Kevin Meyler, CPA, CIRP, LIT  
Senior Vice President



Breanne Barker, CPA, CIRP, LIT  
Vice President

# APPENDIX “A”

## ASSET PURCHASE AND SALE AGREEMENT

This Agreement made this 7th day of October 2021:

### BETWEEN:

**BDO Canada Ltd.** solely in its capacity as court appointed receiver-manager of **732482 Alberta Ltd.** and not in its personal or corporate capacity

and

**2377142 ALBERTA INC.**, a corporation incorporated under the laws of the Province of Alberta and extra provincially registered in the Province of Saskatchewan

### RECITALS:

- A. 732482 Alberta Ltd. ("**732 Alberta**" or the "**Company**") operates the Business (as defined below) and is the registered owner of the Lands (as defined below).
- B. The Vendor (as defined below) was appointed receiver and manager of the assets, undertakings and properties of 732 Alberta pursuant to an order (the "**Appointment Order**") of the Court of Queen's Bench of Alberta (the "**Court**") pronounced September 3, 2021.
- C. The Appointment Order authorizes the Vendor to market and sell, subject to obtaining the Approval and Vesting Order (as defined below) from the Court, all or any part of the assets, undertakings and properties of the Company.
- D. The Vendor has agreed to sell the Business and the Lands to the Purchaser (as defined below) and the Purchaser has agreed to purchase all of Company's right, title and interest in and to the Business and the Lands from the Vendor, at the Closing Date (as defined below), for the Purchase Price (as defined below), and subject to all of the terms and conditions set forth herein.

Now, therefore, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby conclusively acknowledged, the parties hereto covenant and agree as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

In this Agreement:

- (a) "**732 Alberta**" shall have the meaning set forth in the Recitals hereto;
- (b) "**Affiliate**" means, with respect to any person, any other person or group of persons acting in concert, directly or indirectly, that controls, is controlled by or is under

common control with such person. The term “control” as used in the preceding sentence means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person whether through ownership of more than 50% of the voting securities of such person, through being the general partner or trustee of the other person, or through contract or otherwise;

- (c) **“Agreement”** means this agreement of purchase and sale and all schedules attached hereto, as the same may be amended, supplemented, revised or restated from time to time;
- (d) **“Applicable Law”** means any statute, law, ordinance, rule, regulation, regulatory policy, by-law (zoning or otherwise), order, judgment, decree, treaty, guidelines or administrative requirements having the force of law or other requirement having the force of law or restriction of any kind whatever, including, but without limiting the generality of the foregoing, Environmental Laws, as applicable to the Lands;
- (e) **“Appointment Order”** shall have the meaning set forth in the Recitals hereto;
- (f) **“Approval and Vesting Order”** means an order of the Court approving this Agreement and having the effect of vesting the Lands in the name of the Purchaser on Closing, free and clear of all Encumbrances other than the Permitted Encumbrances, in registerable form and in substance satisfactory to the Vendor and on notice to a service list acceptable to the Vendor, which Order shall be substantially in the form of Schedule “C” hereto, subject to such reasonable modifications as required by the Vendor, the Purchaser and the Court to give effect to the transaction as contemplated by this Agreement;
- (g) **“Balance Due on Closing”** shall have the meaning set forth in Section 2.2 hereof;
- (h) **“Books and Documents”** shall have the meaning set forth in Section 6.1 hereof;
- (i) **“Broker”** shall have the meaning set forth in Section 9.9 hereof;
- (j) **“Business”** shall be as described in Schedule “A” including the Purchased Assets;
- (k) **“Business Day”** means any day in the Province of Alberta that is not a Saturday, Sunday or a statutory holiday;
- (l) **“Claim”** means any right or claim of any person that may be asserted or made in whole or in part against the Company or any of its Affiliates and their respective directors, officers, employees, agents or advisors, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including without limitation, by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including, without limitation, any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present or future, known

or unknown, by guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature including, without limitation, any right or ability of any person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action whether existing at present or commenced in the future, together with any other rights or claims of any kind that, if unsecured, would be a debt provable in bankruptcy within the meaning of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 had the Company become bankrupt;

- (m) **“Closing”** means the completion of the transaction of purchase and sale for the Business and the Lands contemplated by this Agreement;
- (n) **“Closing Date”** means that date which is the fourteenth (14<sup>th</sup>) day following the date on which the Approval and Vesting Order is granted and in a form that is registerable at the Alberta Land Titles Office, or such other date as the Vendor and Purchaser may agree in writing;
- (o) **“Closing Time”** means 11:59 A.M. (Alberta time) on the Closing Date or such other time as may be determined by the Vendor in its sole discretion;
- (p) **“Company”** shall have the meaning set forth in the Recitals hereto;
- (q) **“Court”** shall have the meaning set forth in the Recitals hereto;
- (r) **“Deposit”** shall have the meaning set forth in Section 2.2 hereof;
- (s) **“Encumbrance”** means any all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise;
- (t) **“Environment”** means the environment or natural environment as defined in any Environmental Law, and includes, without limitation, air, surface water, ground water, land surface, soil, subsurface strata, a sewer system and the environment in the workplace;
- (u) **“Environmental Laws”** means all laws relating in full or in part to the protection or preservation of the Environment, product liability and employee and public health and safety and includes, without limitation, those Applicable Laws relating to the storage, generation, use, handling, manufacture, processing, labelling, advertising, sale, display, transportation, treatment, release, discharge and/or disposal of Hazardous Substances, including without limitation, the *Canadian Environmental Protection Act, 1999*, S.C. 1999, c.33, the *Transportation of Dangerous Goods Act, 1992*, c.34, the *Environmental Protection and Enhancement Act* (Alberta) and any regulation, order, guideline or policy made pursuant to any of such statutes or in respect of any of such statutes;
- (v) **“ETA”** shall have the meaning set forth in Section 2.4 hereof;

- (w) **“Execution Date”** means the date this Agreement has been signed by all of the parties hereto accepting the terms and conditions of this Agreement;
- (x) **“Governmental Authorities”** means all governments and government officials whether federal, provincial or municipal and all other regulatory authorities that have jurisdiction over the Lands, the Environment to the Lands, and Hazardous Substances at or near the Lands;
- (y) **“Governmental Order”** means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authorities;
- (z) **“GST”** means all goods and services taxes levied pursuant to Section 165(1) of the *Excise Tax Act* (Canada);
- (aa) **“Hazardous Substances”** means any substance or constituent thereof, sound, vibration, ray, heat, odour, radiation, energy, which is or is deemed to be, alone or in any combination, a pollutant, contaminant, source of pollution or contamination, waste of any nature, hazardous substance, hazardous material, toxic substance, dangerous substance or dangerous good including as defined, judicially interpreted or identified in any Environmental Law;
- (bb) **“Improvements”** means all buildings, fixtures and appurtenances constructed on the Lands or any part or parts thereof;
- (cc) **“Information”** shall have the meaning set forth in Section 3.2 hereof;
- (dd) **“Land Titles Office”** means the land titles office for Alberta established pursuant to the *Land Titles Act* (Alberta);
- (ee) **“Lands”** means those lands in City of Lloydminster, Alberta, the legal descriptions of which are set forth in Schedule “A” attached hereto including all Improvements;
- (ff) **“Legal Proceeding”** means any litigation, action, suit, investigation, hearing, claim, complaint, grievance, arbitration proceeding or other proceeding and includes any appeal or review or retrial of any of the foregoing and any application for same;
- (gg) **“Losses”** means any and all assessments, charges, costs, damages, debts, expenses, fines, liabilities, losses, obligations and penalties, whether accrued or fixed, absolute or contingent, matured or unmatured or determined or determinable, including those arising under any Applicable Law, Claim by any Governmental Authorities or Governmental Order and those arising under any contract, agreement, arrangement, commitment or undertaking and costs and expenses of any Legal Proceeding, assessment, judgment, settlement or compromise relating thereto, and all interest, fines and penalties and reasonable legal fees and expenses incurred in connection therewith (on a full indemnity basis);
- (hh) **“Municipality”** means The City of Lloydminster, a municipal corporation established pursuant to the laws of the Province of Alberta;
- (ii) **“Notice Period”** shall have the meaning set forth in Section 8.2(b) hereof;

- (jj) **“Permitted Encumbrances”** means those Encumbrances listed on Schedule “B” hereto;
- (kk) **“Place of Closing”** means the offices of the Vendor’s Solicitors or at such other place as the Vendor and the Purchaser may agree in writing;
- (ll) **“Purchase Price”** shall have the meaning set forth in Section 2.1 hereof;
- (mm) **“Purchased Assets”** shall mean the assets described in Schedule “A”
- (nn) **“Purchaser”** means 2377142 ALBERTA INC. or a wholly owned subsidiary of the Purchaser to be designated by the Purchaser by notice in writing to the Vendor, not less than seven (7) Business Days prior to service of the Vendor’s motion for the Approval and Vesting Order;
- (oo) **“Purchaser’s Conditions”** Intentionally Deleted;
- (pp) **“Purchaser’s Condition Date”** Intentionally Deleted;
- (qq) **“Purchaser’s Solicitors”** means legal counsel for the Purchaser, 2377142 ALBERTA INC., Attention: Meaghan LaRose, email address: [meaghan@psmlaw.ca](mailto:meaghan@psmlaw.ca)
- (rr) **“Receiver”** means BDO Canada Ltd.;
- (ss) **“Representative”** means, in respect of a person, each director, officer, employee, agent, legal counsel, accountant, professional advisor and other representative of such person and its Affiliates, and with respect to the Vendor, includes the Receiver and their respective Affiliates, directors, officers, employees, agents, legal counsel, accountants, professional advisors and other representatives;
- (tt) **“Undertaking”** shall have the meaning set forth in Section 7.2 hereof;
- (uu) **“Vendor”** means the Receiver solely in its capacity as court appointed receiver-manager of the assets, undertakings and properties of 732 Alberta and not in its personal or corporate capacity;
- (vv) **“Vendor’s Conditions”** means all of the conditions for the benefit of the Vendor set forth in Section 5.1 hereof; and
- (ww) **“Vendor’s Solicitors”** means legal counsel for the Receiver, Dentons Canada LLP, Attention: Derek Pontin, email address: [derek.pontin@dentons.com](mailto:derek.pontin@dentons.com).

## 1.2 Grammar

Grammatical variations of any terms defined herein have similar meanings; words importing the singular number shall include the plural and vice versa; and words importing the masculine gender shall include the feminine and neuter genders and vice versa.

## 1.3 Headings

The headings of any article, section or part thereof are inserted for the purposes of convenience only and do not form a part of this Agreement. All uses of the words “hereto”,



“herein”, “hereof”, “hereby” and “hereunder” and similar expressions refer to this Agreement and not to any particular section or portion of it.

#### 1.4 Schedules

The following schedules are attached hereto and form a part of this Agreement:

Schedule “A” - Legal Description of the Lands and Business

Schedule “B” - Permitted Encumbrances

Schedule “C” - Approval and Vesting Order

#### 1.5 Currency

Unless otherwise expressly stated herein, all references to currency shall be Canadian currency.

## ARTICLE 2 AGREEMENT OF PURCHASE AND SALE

#### 2.1 Purchase Price

The Vendor hereby agrees to sell the Business and Lands to the Purchaser and the Purchaser hereby agrees to purchase the Business and the Lands from the Vendor, as at the Closing Date, at and for the Purchase Price and on and subject to all of the terms and conditions set forth herein. The purchase price for the Business and Lands, subject to adjustments as provided herein, shall be the sum of REDACTED (the “Purchase Price”).

#### 2.2 Payment of Purchase Price

The Purchaser covenants and agrees to pay the Purchase Price in lawful money of Canada as follows:

- (a) the sum of REDACTED the “Deposit”), which amount will be paid by the Purchaser to the Broker or the Vendor’s Solicitors prior to 5:00 pm on the first business day following the execution of this Agreement;
- (b) the balance of the Purchase Price shall be paid to the Vendor’s Solicitors on the Closing Date, subject to the adjustments provided for herein (the “Balance Due on Closing”).

#### 2.3 Purchase Price Allocation

The Vendor and the Purchaser covenant and agree with each other that the Purchase Price shall be allocated among the Purchased Assets in a manner to be mutually agreed, acting reasonably, on or before the Closing Date, or such other date as the Parties may agree, and the Parties agree to co-operate in the filing of all elections under the *Income Tax Act* (Canada) as may be necessary or desirable to give effect to such allocations for tax purposes. In addition the Vendor and the

Purchaser agree to prepare and file their respective tax returns in a manner consistent with those allocations and elections. If either party fails to file its tax returns in the agreed manner, it shall indemnify and save harmless the other of them, in respect of any additional tax, interest, penalty, legal or accounting costs paid or incurred by the other of them as a result of the failure to file.

## **2.4 Goods and Services Taxes/Other Taxes**

In addition to the Purchase Price, the Purchaser shall pay to the Vendor on Closing all federal, provincial and other sales, value-added, GST, land transfer and all other taxes whatsoever which are exigible in connection with the transactions contemplated by this Agreement, together with all duties or other charges properly payable by the Purchaser upon or in connection with the conveyance and transfer of the Lands. The Purchaser does hereby indemnify and save the Vendor harmless from and against all claims for payment of the above-mentioned taxes including penalties and interest thereon and any liability or costs incurred as a result of any failure to pay such taxes when due.

The Purchaser hereby represents and warrants that it is now or will be by no later than the Closing Date registered for GST in accordance with the requirements of the provisions of the *Excise Tax Act* (Canada) (the “**ETA**”). In addition to all other taxes payable by the Purchaser at Closing, the Purchaser agrees to pay to the Vendor all GST payable in respect of the purchase of the Lands unless the Purchaser shall deliver to the Vendor a statutory declaration on Closing attesting to its GST registration and attaching a copy of its up-to-date GST registration number and such other evidence of registration as the Vendor reasonably requests in which case, notwithstanding the foregoing, the Vendor shall not collect such GST and the Purchaser shall be responsible to pay or account for the GST directly to the Receiver General of Canada in the manner and within the time prescribed by the ETA (subject to its available input tax credits).

The Purchaser does hereby indemnify and save harmless the Vendor from any GST, penalty, interest or other amounts which may be payable by or assessed against the Vendor under the ETA as a result of or in connection with the Vendor not collecting and remitting any GST applicable on the sale of the Lands.

## **2.5 Adjustments**

Adjustments to the Purchase Price shall be made as of the Closing Date for all items that would normally be adjusted between a vendor and purchaser in respect of the sale of assets similar to the Business and the Lands in a similar insolvency sale including without limitation prepaid expenses, accrued expenses, pre-paid utilities, taxes, pre-paid bookings, inventories and supplies, and payables . All adjustments shall be based on the cost to the Vendor or any related party (as defined by the *Income Tax Act* of Canada), without mark-up. The parties hereto acknowledge and agree that accounts receivable and cash on hand as of the Closing Date shall remain the exclusively the entitlement of the Vendor and shall not be adjusted between the parties.

## **2.6 Deposits**

The Deposit shall be held by either the Broker or Vendor’s Solicitors in a non-interest bearing trust account. The Deposit shall be non-refundable to the Purchaser except only if the mutual conditions at section 5.3 are not satisfied or waived (to the extent permitted), or the Vendor materially breaches the terms of this Agreement, in which case the Deposit shall be returned to the Purchaser. The Deposit shall be credited on account of the Purchase Price and released to

the Vendor on Closing. If the mutual conditions at section 5.3 have been satisfied or, to the extent permitted, waived, and the within transaction shall not be completed for any reason other than a material breach by the Vendor of a term of this Agreement, then the Deposits shall be forfeited by the Purchaser and retained by the Vendor as a genuine estimate of the Vendor's liquidated damages (and not as a penalty in any case).

### **ARTICLE 3 STATUS OF BUSINESS AND LANDS**

#### **3.1 "As-Is Where-is"**

The Purchaser acknowledges and agrees that the Business and Lands and each and every part thereof are being purchased on an "as-is where-is" basis as they exist as of the Closing Date and that from and after the Closing Date the Vendor shall have no liability or responsibility whatsoever in respect of the Business and the Lands, including without limitation the Business and its operations, any Hazardous Substances at, on, under, about, or migrating to or from the Lands, or the environmental condition of the Lands or of any land or Environment in proximity to the Lands. The Purchaser acknowledges and agrees that Information relating to the Business and the Lands which is included in this Agreement or obtained by the Purchaser from the Vendor (including, without limitation, the Books and Documents and any information arising therefrom) has been provided solely for the convenience of the Purchaser and is not warranted to be accurate, complete or reliable and does not constitute any representation or warranty and does not form part of the terms of this Agreement.

#### **3.2 Own Analysis**

The Purchaser acknowledges and agrees that: (i) it has entered into this Agreement on the basis that the Vendor does not warrant title to the Business and the Lands and that the Purchaser has conducted (and will conduct) its own investigations and inspections of the Business and the Lands and all matters and things connected with or in any way related to the Business and the Lands, without limitation including with respect to matters concerning the value of any of the Purchased Assets or the future cash flow therefrom; the quality, condition, description, fitness for purpose, suitability, serviceability or merchantability of the Purchased Assets for any purpose whatsoever; and any defects, errors or omissions on or in the Purchased Assets; (ii) it has satisfied itself (or will satisfy itself) with respect to the Business and the Lands and all matters and things connected with or in any way related to the Business and the Lands; and (iii) it has relied (and will rely) entirely upon its own investigations and inspections in entering into this Agreement and in concluding the transaction contemplated by this Agreement, notwithstanding the provision to the Purchaser (including its Affiliates and Representatives) by the Vendor (including its Affiliates and Representatives) of any Books and Documents, and listings, reports or other documents or information (collectively, "**Information**") relating to the Business and the Lands which are in the possession of the Vendor.

#### **3.3 Environmental Release, Indemnity and Covenant Not to Sue**

The Purchaser agrees that, and that there are no representations, covenants and agreements otherwise, it is purchasing the Business and the Lands in their present state, condition and location including, without limitation, the environmental condition of the Lands, the existence of any Hazardous Substances at, on, under, about, or migrating to or from the Lands,

and any impact of any environmental condition at the Lands or any Hazardous Substances at or migrating to or from or to the Lands, whether presently known or later discovered.

The Purchaser, from and after the Closing Date, shall assume all liabilities and responsibilities, whether presently known or later discovered and regardless of the source or cause of the same, with respect to the environmental condition of the Lands, the existence of any Hazardous Substances at, on, under, about, or migrating to, through or from the Lands, and any impact of any environmental condition at the Lands or any Hazardous Substances, at, on, under, about, or migrating to or from the Lands, and the Purchaser does hereby indemnify and hold the Vendor (the "**Indemnified Party**"), harmless with respect thereto, and the Purchaser hereby agrees: (a) to release the Indemnified Party from any and all claims of any nature or kind, whether by or based upon statute, common law, or in equity, that the Purchaser may now or in the future have in relation thereto; and (b) that it will not alone or in concert with any other person pursue any action, claim of any nature or kind, dispute or proceeding against the Indemnified Party in relation thereto.

## **ARTICLE 4 REPRESENTATIONS AND WARRANTIES**

### **4.1 Purchaser's Representations and Warranties**

The Purchaser hereby represents, warrants and covenants to and with the Vendor now and on Closing that:

- (a) the Purchaser is acting as a principal and not as an agent, trustee or other representative;
- (b) the Purchaser has taken all necessary corporate action to authorize the entering into and performance by it of this Agreement;
- (c) the Purchaser is a corporation, duly incorporated and existing under the laws of its jurisdiction of incorporation and has the requisite power and authority to make this Agreement, complete this Agreement, and perform all its obligations hereunder including effecting all corporate registrations in the Province of Alberta necessary to be the registered owner of title to the Lands;
- (d) no registration, notice, consent, approval or filing under any Applicable Laws, including (without limitation) the *Investment Canada Act* and the *Competition Act* (Canada), is required as a condition or result of the Purchaser making the Agreement, or the completion or performance of this Agreement, including the purchase of the Business and the Lands by the Purchaser hereunder;
- (e) the consummation of the transaction contemplated herein will not constitute or result in a material violation, breach or default by it under any provision of any agreement or instrument to which it is a party or by which is it bound or any judgment, law, decree, order or ruling applicable to it;
- (f) this Agreement, and each of the other agreements, documents and instruments to be executed by the Purchaser on or before Closing, have been or will be duly executed and delivered by the Purchaser and will constitute valid and binding

obligations of the Purchaser, enforceable in accordance with the terms hereof or thereof, as the case may be;

- (g) the Purchaser is not a non-Canadian person within the meaning of the *Investment Canada Act* nor a non-resident for the purposes of the *Income Tax Act*; and
- (h) the Purchaser is registered pursuant to the ETA under number 77505 3408 RT0001.

#### **4.2 No Representations and Warranties by the Vendor**

The Purchaser hereby acknowledges and agrees that it has satisfied itself with respect to and acknowledges that neither the Vendor nor any of its representatives makes any representations or warranties, and in particular, and without limiting the generality of the foregoing, the Vendor disclaims and neither the Vendor nor any of its Representatives shall be liable for any representation or warranty which may have been made or alleged to be made in any instrument or document related hereto, or in any statement or information made or communicated to the Purchaser in any manner including any opinion, information, or advice which may have been provided to the Purchaser by the Vendor or any of its Representatives in connection with the Business and Lands or in relation to the transaction contemplated herein. For greater certainty, but without limiting the generality of the foregoing, neither the Vendor nor any of its Representatives makes any condition, representation or warranty, express or implied, with respect to or in any way related to any matter or thing whatsoever including, without limitation:

- (a) the title, description, nature, quality, quantity, size, merchantability, fitness for any purpose, state, condition, cost, undue expenses, validity or location of all or any of the Business and the Lands or the right of the Vendor to sell or assign same, or as to the accuracy or completeness of the Information provided or made available to the Purchaser;
- (b) the validity, registration, enforceability or priority of any mortgages, charges, liens, encumbrances, security interests, claims of any nature or kind or demands of whatsoever nature or kind affecting or in any way related to all or any of the Business and the Lands;
- (c) the state, condition, location, age, currency, obsolescence, value, usability of or any other matters arising out of or in any way connected with any building and other permanent fixtures forming part of the Business and the Lands and any equipment or facilities thereon or therein;
- (d) the compliance of the Lands and their use in accordance with Applicable Laws;
- (e) the environmental condition of the Lands;
- (f) the uses, present or future, made or to be made of the Lands;
- (g) the existence, nature, kind, state or scope, identity, effect or consequences of any Hazardous Substances on, under, about or migrating to or from the Lands;
- (h) the existence, state, nature, kind, identity, extent, effect or consequences of any administrative orders, control orders, abatement orders, compliance orders or any

other orders, proceedings, directions, issues or actions taken under or pursuant to Environmental Laws or any other Applicable Law;

- (i) the existence, state, nature, kind, identity, extent, effect or consequences of any liability, responsibilities, or obligations arising from or in relation to the environmental condition of the Lands or any Applicable Law including, without limitation, any obligation with respect to any Hazardous Substances at, on, under, about, or migrating to or from the Lands and any obligations to compensate any person for costs incurred in connection with or damages suffered as a result of the presence or migration of any Hazardous Substances at, on, under, about, to, or from the Lands or elsewhere;
- (j) the zoning of the Lands, the planning status of the Lands, the condition, existence or location of services on or near the Lands, the use to which the Lands can be put or the fulfillment or satisfaction of any subdivision condition;
- (k) the manner in which the Vendor carried on the Business; and
- (l) the existence and validity of any licenses, permits or authorizations, without limitation including from any Governmental Authority, court, regulatory authority or other person whatsoever having or purporting to have jurisdiction over the Vendor, the Lands, the Business carried on by 732 Alberta or the Vendor, or any sale, transfer, conveyance, lease, consignment, assignment, disposition or other dealings with the Business and the Lands.

#### **4.3 No Collateral Agreements**

It is agreed that there is no representation, promise, warranty, collateral agreement, term or condition of any kind made by or on behalf of the Vendor affecting this Agreement or the Lands or supported hereby other than expressed herein in writing. The Purchaser acknowledges that this Agreement entirely replaces and supersedes all previous agreements and correspondence and contains all the terms, conditions, and provisions agreed upon between the parties hereto, and is not subject to any collateral or oral agreement, undertaking or representation (negligent or otherwise) of any kind.

### **ARTICLE 5 CONDITIONS**

#### **5.1 Vendor's Conditions**

The obligation of the Vendor to complete the transaction of purchase and sale which is contemplated herein is subject to and conditional upon the following matters (each of which is inserted for the sole benefit of the Vendor and may be waived in whole or in part by the Vendor) being satisfied on or by the date specified therefor (which shall be the Closing Date unless otherwise specified):

- (a) the representations and warranties of the Purchaser contained in the Agreement shall be true and correct in all material respects as at the Closing Date and with the same force and effect as if made at and of such time;

- (b) the Purchaser shall have paid to the Vendor all amounts required to be paid by it under this Agreement; and
- (c) the Purchaser shall have performed, in all material respects, its obligations and covenants under this Agreement to the extent required to be performed on or before the Closing Date.

The closing of the transaction of purchase and sale contemplated herein by the Vendor shall be deemed to be waived by the Vendor of compliance with any condition inserted for its benefit and not satisfied on the Closing Date.

In the event that any one of the foregoing conditions is neither complied with nor waived by the Vendor then, in such event, this Agreement shall terminate, subject only to the performance of those obligations that survive termination, and the Deposit together with any accrued interest thereon shall immediately be forfeit, paid and fully releasable to the Vendor as a genuine pre-estimate of liquidated damages, representing the Vendor's Losses as a result of Closing not occurring. The Purchaser hereby waives any claim or defence that the amount of the Deposit is a penalty or is otherwise not a genuine pre-estimate of the Vendor's damages.

## **5.2 Purchaser's Conditions**

There are no Purchaser's Conditions.

## **5.3 Conditions Respecting Appointment Order and Approval and Vesting Order**

The following conditions have been inserted for the benefit of both the Vendor and the Purchaser and may not be waived by either party but may be extended by written agreement of both parties:

- (a) no part of the Business or the Lands shall have been removed from the control of the Vendor by any means or process and the Vendor shall not have lost or been fettered in its ability to convey the Business and the Lands or either of them due to an order of the Court or otherwise pursuant to the Appointment Order;
- (b) within forty-five days of execution of this Agreement (which date is subject to the Court's availability and the reasonable availability of parties to whom notice must or should reasonably be given), the Vendor shall make Application for and obtain from the Court the Approval and Vesting Order; and
- (c) all appeal periods with respect to the Approval and Vesting Order shall have expired with no appeal having been commenced and no other legal challenge to the Approval and Vesting Order having been commenced;

## **5.4 Satisfaction of Conditions**

Each of the Parties shall proceed diligently and in good faith and use all commercially reasonable efforts to fulfill and assist in the fulfillment of the conditions set forth in Sections 5.1, 5.2 and 5.3. In addition, each of the Parties agrees not take any action that could reasonably be expected to preclude, delay or have an adverse effect on the transaction contemplated herein or, in the case of the Purchaser, that would render, or may reasonably be expected to render, any

representation or warranty made by the Purchaser in this Agreement untrue in any material respect.

## **ARTICLE 6 VENDOR DELIVERIES**

### **6.1 Vendor Deliveries**

On or before the Closing Date, the Vendor shall make available to the Purchaser copies of or access to all plans, studies, reports, records, tests, agreements, real property reports and generally all documentation or materials and information in its actual possession, if any, (collectively, the “**Books and Documents**”) which relate to the ownership, physical state of the Business and the Lands. Notwithstanding the foregoing any appraisals shall be specifically excluded from Books and Documents and not be provided or made available. The Vendor shall execute any consents or authorizations prepared by the Purchaser as may be reasonably required to release file information regarding the Lands from the Municipality or other Governmental Authorities provided that such consents and authorizations shall not permit any inspection or investigation of the Business and the Lands or any part thereof.

For clarity purposes, delivery by the Vendor to the Purchaser of the consents, authorizations, and Books and Documents as required by this Section 6.1, is not for the purposes of any Purchaser condition but only for the purposes of operation transition.

### **6.2 Permitted Encumbrances**

The Purchaser agrees to accept title to the Business and the Lands subject to all of the Permitted Encumbrances. The Purchaser covenants and agrees to satisfy itself as to compliance with all of the Permitted Encumbrances and the Vendor shall not be required to provide letters or certificates of compliance or any releases or partial releases of same. On Closing, title to the Business and the Lands shall be free from all Encumbrances, save and except for Permitted Encumbrances, by virtue of the Approval and Vesting Order (and not as a representation or warranty of the Vendor).

### **6.3 Compliance with Permitted Encumbrances and Applicable Laws**

The Purchaser covenants and agrees:

- (a) to assume on Closing and be bound by and to comply with all provisions of the Permitted Encumbrances, at the Purchaser's sole cost and expense, and the Purchaser hereby covenants and agrees with the Vendor to discharge, perform and fulfill all terms, covenants, provisos, conditions, stipulations, obligations and liabilities of the Vendor under the Permitted Encumbrances, whether arising before or after the Closing, in the same manner and to the same extent as if the Purchaser had executed the same in the place and stead of the Vendor. The Purchaser shall indemnify and hold harmless the Vendor with respect thereto, whether or not such compliance or non-compliance occurs before, on or after Closing. If required by the provisions of any Permitted Encumbrances, or by any party to any Permitted Encumbrances, the Purchaser shall enter into an agreement directly with the other parties to such Permitted Encumbrances confirming such assumption; and



- (b) to assume on Closing, at the Purchaser's sole cost and expense, complete responsibility for compliance with all Applicable Laws which apply to the Business and the Lands and the use thereof by the Purchaser. The Purchaser shall indemnify and hold harmless the Vendor with respect thereto, whether or not such compliance or non-compliance occurs before, on or after Closing.

#### **6.4 Consents and Assumption of Contracts, Leases, Permits, and Employees**

Both before and after Closing, the Purchaser shall use all commercially reasonable efforts to obtain any and all approvals, licences and permits required under Applicable Law and any and all material consents of third parties required to permit the transaction contemplated herein to be completed or that may be required for the Purchaser to own and operate the Business and Lands. The Purchaser acknowledges that the Vendor has no obligation to transfer any leases, permits, contracts or licences to the Purchaser, including without limitation in respect of Ramada Worldwide franchise or branding, Honda Canada Finance and Blue Chip Leasing Corporation, and that the Purchaser is solely responsible for obtaining consent to all such approvals, licences, permits and consents, as it may require. Without limiting the generality of the foregoing, it is the sole obligation of the Purchaser, at the Purchaser's sole cost and expense, to:

- (a) obtain and pay the cost of any consents, permits, licences, certificates, assignments, registration fees, attorney and agent fees, filing fees, issue fees, franchise termination, de-branding, re-branding, or other authorizations and assignments necessary or desirable for the transfer of the right, title and interest to the Business and Lands or for the operation or use of the Business and Lands;
- (b) obtain all third party consents that are required to complete the transaction and own and operate the Business and Lands;
- (c) obtain the consent to transfer any applicable leases, if at all; and
- (d) provide any and all financial assurances that may be required by Governmental Authorities or any third parties to permit the transfer to the Purchaser of any of the Business and Lands.

However, to the extent the Vendor is able to transfer any leases, permits or licences to the Purchaser, the Vendor will use commercially reasonable efforts to transfer such leases, permits and licences to the Purchaser, provided that the Purchaser pays all costs associated with such transfer. The Purchaser acknowledges that the transfers of leases, permits or licenses shall not be a condition precedent to Closing and that the Purchaser may not obtain transfers of applicable leases at all.

#### **6.5 Expropriation**

If prior to Closing the whole of the Lands or any material portion is taken by any Governmental Authorities or other authority or is required for any Governmental Authorities' or other authority's use, then the following provision shall apply: (a) in the event that the expropriation is of a material portion of the Lands, the Purchaser may elect by notice given to the Vendor within ten (10) Business Days after receipt of written notice of the proposed expropriation (and the Closing Date shall be extended as necessary so that such period of time may be allowed the Purchaser prior to Closing) to receive the proceeds of expropriation or an equivalent adjustment to the Purchase Price and complete this Agreement or terminate this Agreement provided that if

at the expiry of the time period set out above the Purchaser has not made an election as aforesaid the Purchaser shall be conclusively deemed to have elected to receive the proceeds of expropriation, or an equivalent adjustment to the Purchase Price accordingly and complete this Agreement; and (b) in the event that the expropriation is not with respect to a material portion of the Lands the Purchaser shall be required to receive the proceeds of expropriation or an equivalent adjustment to the Purchase Price and complete this Agreement. Any dispute between the parties as to the materiality of the portion of the Lands being expropriated shall be decided by an independent accredited architect, appointed by the parties and if the parties cannot agree, by reference to a Judge of the Court of Queen's Bench of Alberta, Commercial List.

## **ARTICLE 7 CLOSING ARRANGEMENTS**

### **7.1 Closing Date and Closing**

The Closing shall occur on the Closing Date at the Closing Time at the Place of Closing. In the event the Closing Date is on a date when the Land Titles Office is closed, the Closing Date shall take place on the following Business Day that the Land Titles Office is open.

### **7.2 Vendor's Closing Documentation**

On or before the date which is the fifth (5th) Business Day before the Closing Date, the Vendor shall deliver or cause to be delivered to the Purchaser's Solicitors the following, duly executed by the Vendor (as applicable) and, where applicable, by such other parties as may be specified or required:

- (a) a registerable Approval and Vesting Order in the form attached hereto as Schedule "C";
- (b) a registrable transfer of land for the Lands duly executed by the Vendor;
- (c) a statement of adjustments;
- (d) Purchase Price Allocation - with the Vendor's portion duly completed and signed;
- (e) Canada Revenue Agency Form 44 - Election Concerning the Acquisition of a Business or Part of a Business - with the Vendor's portion duly completed and signed;
- (f) an undertaking to readjust any errors or omissions in the statement of adjustments for a period of time no longer than three (3) months after the Closing Date (the "**Undertaking**"); and
- (g) a copy of the Receiver's certificate confirming that all conditions of Closing of the transaction of purchase and sale contemplated by this Agreement have been satisfied or waived.

### **7.3 Purchaser's Closing Documentation**

On or before the Closing Date, the Purchaser shall deliver or cause to be delivered to the Vendor's Solicitors the following, duly executed by the Purchaser (as applicable) and, where applicable, by such other parties as may be specified or required:

- (a) a counterpart of the Undertaking;
- (b) a certificate of the Purchaser attesting to the Purchaser's GST registration number with a copy of its GST registration number printed from the Canada Revenue Agency website attached to such declaration;
- (c) an indemnity from the Purchaser in favour of the Vendor with respect to the Purchaser's payment of GST in a reasonable form that is provided by the Vendor;
- (d) a certificate, dated the Closing Date, confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true and correct or have been performed (as the case may be) as of the Closing Date, with the same effect as though made as of the Closing Date;
- (e) if required by the provision of any Permitted Encumbrances or by any party to any Permitted Encumbrances, an individual assumption agreement in a form required by such Permitted Encumbrances;
- (f) Canada Revenue Agency Form 44 - Election Concerning the Acquisition of a Business or Part of a Business - duly completed and signed by both Vendor and Purchaser;
- (g) Purchase Price Allocation - duly completed and signed by both Vendor and Purchaser;
- (h) the Balance Due on Closing; and
- (i) such further and other documentation reasonable and customary relative to the completion of a transaction of the nature of the transaction contemplated by this Agreement as the Vendor may reasonably require in a form and content satisfactory to the Vendor acting reasonably.

### **7.4 Closing Trust Conditions**

The deliveries referred in Sections 7.2 and 7.3 shall be subject to such reasonable solicitor's trust conditions for the City of Calgary which are not inconsistent with this Agreement and as may be agreed upon between the Vendor's Solicitors and the Purchaser's Solicitors or, failing such agreement as determined by arbitration by a single arbitrator appointed by agreement of the Vendor and the Purchaser or by the Court of Queen's Bench of Alberta on application by either party. Notwithstanding any other provision hereof it is agreed that such trust conditions shall require that the entire cash Balance Due on Closing be paid to the Vendor's Solicitors in trust prior to the Purchaser proceeding to register the Approval and Vesting Order, and all conditions of Closing of the transaction of purchase and sale contemplated by this Agreement have been satisfied or waived before the Purchaser may make any use of the Receiver's Certificate.

## 7.5 Post-Closing

On the Closing Date, provided the Purchaser is in compliance with this Agreement and has delivered all funds and items to be delivered in connection with Closing and the entire Purchase Price, as adjusted, is releasable to the Vendor, the Vendor will cause the Vendor's Solicitors to deliver to the Purchaser's Solicitors or the Purchaser all keys and original Books and Documents to the Improvements in the Vendor's actual possession.

## ARTICLE 8 INDEMNITY

### 8.1 Indemnification Given by Purchaser

If Closing occurs, the Purchaser shall:

- (a) be liable to the Vendor for; and
- (b) as a separate covenant, indemnify the Vendor and its Representatives from and against;

all Losses suffered, sustained, paid or incurred by any of them to the extent arising or accruing on or after the Closing Date and which relate to the Business and Lands, including all Losses attributable to the ownership, operation, use, construction or maintenance of the Business and Lands arising or accruing on or after the Closing Date and in respect of the indemnities specified in Section 3.3. The Purchaser's indemnity obligation set forth in this Section 8.1 shall survive the Closing Date indefinitely.

### 8.2 Third Party Claims

- (a) If the Vendor receives notice of the commencement or assertion of any Third Party Claim for which the Purchaser is liable pursuant to this Agreement, the Vendor shall give the Purchaser reasonably prompt notice thereof, but in any event no later than 14 days after receipt of such notice of such Third Party Claim. Such notice to the Purchaser shall describe the Third Party Claim in reasonable detail and shall indicate, if reasonably practicable, the estimated amount (or the method of computation of the amount) of the Losses that has been or may be sustained by the Vendor, and a reference to the provisions of this Agreement upon which such claim is based;
- (b) The Purchaser may participate in the defence of any Third Party Claim by giving notice to that effect to the Vendor not later than 14 days after receiving notice of that Third Party Claim (the "**Notice Period**") so long as: (i) the Purchaser first acknowledges to the Vendor, in writing, liability to the Vendor under this Agreement with respect to such Third Party Claim and that the outcome of such Third Party Claim does not alter or diminish the Purchaser's obligation to indemnify the Vendor pursuant to this Agreement, subject to the Purchaser's right to contest in good faith the Third Party Claim; (ii) the Purchaser has the financial resources to defend against the Third Party Claim and fulfill any indemnification obligations and has provided the Vendor with evidence thereof; (iii) the Third Party Claim involves monetary damages; and (iv) the Purchaser participates in the defence of the Third Party Claim actively and diligently. The Purchaser's right to do so shall be subject

to the rights of any insurer or other third party who has potential liability in respect of that Third Party Claim. The Purchaser shall pay all of its own expenses of participating in or assuming such defence. The Vendor shall cooperate in good faith in the defence of each Third Party Claim and may participate in such defence assisted by counsel of its own choice at its own expense; and

- (c) If the Vendor has not received notice within the Notice Period that the Purchaser has elected to participate in the defence of such Third Party Claim, or if the Purchaser has given such notice but thereafter fails or is unable to participate in the defence of such Third Party Claim actively and diligently, the Vendor may, at its option, elect to settle or compromise the Third Party Claim on terms of its choosing, or assume such defence assisted by counsel of its own choosing, and the Purchaser shall be liable for all reasonable costs and expenses paid or incurred in connection therewith (including legal fees on a solicitor and its own client, full indemnity basis) and any Loss suffered or incurred by the Vendor with respect to such Third Party Claim.

### **8.3 Failure to Give Timely Notice**

A failure to give timely notice as provided in this Article 8 shall not affect the rights or obligations of any Party except and only to the extent that, as a result of such failure, any Party which was entitled to receive such notice was deprived of its right to recover any payment under any applicable insurance coverage or was otherwise prejudiced as a result of such failure

### **8.4 No Merger**

There shall not be any merger of any liability or indemnity hereunder in any assignment, conveyance, transfer or document delivered pursuant hereto notwithstanding any rule of law, equity or statute to the contrary and all such rules are hereby waived

## **ARTICLE 9 MISCELLANEOUS**

### **9.1 Tender of Monies**

Any tender of documents and money hereunder may be made on the Vendor or the Vendor's Solicitors or on the Purchaser or the Purchaser's Solicitors, as the case may be, and money may be tendered by certified negotiable solicitor's trust cheque, wire transfer or a bank draft drawn on or issued by a Canadian chartered bank.

### **9.2 Non-Merger**

The covenants, representations, warranties and agreements herein contained on the part of the Purchaser and Vendor shall not merge in the Closing, but shall continue in full force and effect notwithstanding the delivery and registration of the Approval and Vesting Order and any such unfulfilled covenants or agreements at the time the Purchaser requests the transfer may be set out in the transfer to the Purchaser or by way of separate agreement, which the Purchaser covenants to sign if required by the Vendor.

### **9.3 Assignment**

Subject to the Purchaser's right hereunder to appoint a corporate non-arm's length buyer to take title to the Lands, this Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns, provided that the Purchaser may not assign the benefit of this Agreement without the prior written consent of the Vendor.

### **9.4 Notices**

Any notice, request, consent, demand, approval, acceptance, waiver or other document required or permitted to be given hereunder shall be in writing and shall be given by personal delivery thereof or by facsimile or email to:

In the case of the Purchaser:

Address: Box 1135 Lloydminster SK S9V 1E9  
Attention: Krista Canfield  
Email: [kcanfield@btribalc.ca](mailto:kcanfield@btribalc.ca)  
Fax no: 306-825-3035

with a copy of the Purchaser's Solicitor at address provided herein.

In the case of the Vendor:

Address: 5800 2 St SW Suite 110, Calgary, AB T2H 0H2  
Attention: Mr. Kevin Meyler  
Email Address: [kmeyler@bdo.ca](mailto:kmeyler@bdo.ca)

with a copy of the Vendor's Solicitor at address provided herein.

Any notice, if delivered in person, shall be deemed to have been validly and effectively given and received on the date of personal delivery. Any notice, if sent by facsimile or email transmission and received before 5:00 p.m. (Alberta time) on a Business Day shall be deemed to have been validly and effectively given and received on the date of transmission and otherwise shall be deemed to have been validly and effectively given and received on the next Business Day. By giving to the other party at least three (3) Business Days' notice thereof, either party may, at any time and from time to time, change its address for delivery or communication for purposes of this section.

### **9.5 Unenforceability of Covenants**

If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement 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 Agreement shall be valid and enforced to the fullest extent permitted by law.

#### **9.6 Time of Essence**

It is expressly understood that time shall be of the essence of this Agreement.

#### **9.7 Notice of Agreement**

The Purchaser hereby covenants and agrees that it will not register this Agreement, notice thereof or any caveat, caution, certificate of pending litigation or any other documents which may affect title to the Lands.

#### **9.8 Governing Law**

This Agreement shall be governed by and construed and enforced in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein and shall enure to the benefit of and be binding upon the parties hereto and their respective successors or permitted assigns.

#### **9.9 No Commissions**

The Vendor shall be responsible for payment of all fees or commissions to RE/MAX of Lloydminster ("**Broker**") that the Vendor has agreed in writing to pay to Broker in connection with the Lands and/or the transactions contemplated by this Agreement. Each of the parties represents and warrants that it has not executed any documentation or taken any other step that would make the other party responsible for real estate commissions or fees. Each party hereto agrees that if any person or entity, other than Broker, makes a claim for brokerage commissions or finder's fees related to this Agreement or the sale of the Lands and such claim is made by, through or on account of any acts or alleged acts of said party or its representatives, said party will protect, indemnify, defend and hold the other party harmless from and against any and all loss, liability, cost, damage and expense (including reasonable legal fees) in connection therewith.

#### **9.10 Counterparts**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by facsimile or other electronic format of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

**[Signature page to follow]**

**IN WITNESS WHEREOF** the parties have duly executed this Agreement as of the date first written above.

**2377142 ALBERTA INC.**

By: KCanfield  
Name: Krista Canfield  
Title: President

*I am authorized to bind the corporation.*

**BDO Canada Ltd. in its capacity as Court-  
appointed receiver-manager of 732482  
Alberta Ltd. and not in its personal or  
corporate capacity**

By: Kevin Meyler  
Name: Kevin Meyler  
Title: Senior Vice President

*I am authorized to bind the corporation.*



**SCHEDULE "A"**  
**LEGAL DESCRIPTIONS OF THE LANDS AND BUSINESS**

**1. LEGAL DESCRIPTION OF THE LANDS**

PLAN 4847NY  
BLOCK 49  
LOT 38  
EXCEPTING THEREOUT ALL MINES AND MINERALS

**2. BUSINESS**

The Business being operated from the Improvements on the Lands including the Purchased Assets described as:

- a) machinery, tools, chattels, moveables, furniture, furnishings, artwork and equipment and accessories located at the Business;
- b) The Company's files, records, documents, customer lists, guest reservation cards, advance reservations, correspondence, telephone numbers and computer software;
- c) The Company's interest in that specific lease referenced in the Alberta Personal Property Registry under registration number 19042632305, made in favour of BLUE CHIP LEASING CORPORATION, concerning:

ALL TELECOMMUNICATIONS EQUIPMENT OF EVERY NATURE OR KIND, FINANCED BY THE SECURED PARTY, AS LESSOR, TO THE DEBTOR , AS LESSEE, PURSUANT TO A SECURITY AGREEMENT LEASE NUMBER 58203(98565), AS AMENDED FROM TIME TO TIME, INCLUDING : OFFICE PHONE SYSTEM WITH 1-AX CONTROLLER,3-4 LS PLUS 12 ONS COMBO CARDS,2-3300 24 PORT ONSP CARDS,1-5540 IP CONSOLE, TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, SUBSTITUTIONS AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH THE COLLATERAL; OR PROCEEDS THEREOF. PROCEEDS: ACCOUNTS, CHATTEL PAPER, GOODS, DOCUMENTS OF TITLE, INVENTORY, INSTRUMENTS, MONEY, INTANGIBLES AND SECURITIES (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INSURANCE PROCEEDS.

subject to Article 6.4, hereof; and

- d) The Company's interest in any inventory or supplies used or held for use at the Business;

all as may be in existence on the Closing Date;

But specifically EXCLUDING the following assets and property of the Company:

1. All contracts, licences and permits that are not assignable, or that are assignable only with third-party consent and such consent is not obtained.
2. That specific lease referenced in the Alberta Personal Property Registry under registration number 17112104879, made in favour of HONDA CANADA FINANCE INC., concerning one 2018 Honda CRV bearing serial number 2HKRW2H25JH101014.

3. The lands legally described as:

CONDOMINIUM PLAN 0721242  
UNIT 10  
AND 132 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE  
COMMON PROPERTY  
EXCEPTING THEREOUT ALL MINES AND MINERALS

4. Accounts receivable and cash on hand as of the Closing Date.
5. Such other exclusions as are expressed in the within agreement.

**SCHEDULE "B"**  
**PERMITTED ENCUMBRANCES**

A. Alberta Personal Property Registry registration number 19042632305, made in favor of Blue Chip Leasing Corporation, pertaining to:

ALL TELECOMMUNICATIONS EQUIPMENT OF EVERY NATURE OR KIND, FINANCED BY THE SECURED PARTY, AS LESSOR, TO THE DEBTOR , AS LESSEE, PURSUANT TO A SECURITY AGREEMENT LEASE NUMBER 58203(98565), AS AMENDED FROM TIME TO TIME, INCLUDING : OFFICE PHONE SYSTEM WITH 1-AX CONTROLLER,3-4 LS PLUS 12 ONS COMBO CARDS,2-3300 24 PORT ONSP CARDS,1-5540 IP CONSOLE, TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, SUBSTITUTIONS AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH THE COLLATERAL; OR PROCEEDS THEREOF. PROCEEDS: ACCOUNTS, CHATTEL PAPER, GOODS, DOCUMENTS OF TITLE, INVENTORY, INSTRUMENTS, MONEY, INTANGIBLES AND SECURITIES (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INSURANCE PROCEEDS.

B. General Permitted Encumbrances applicable to the Lands:

- i. All exceptions, reservations and conditions to which the titles to the Lands are subject pursuant to the *Land Titles Act* (Alberta).
- ii. All caveats and instruments registered by or on behalf of the Purchaser.

C. Specific Permitted Encumbrances for the Lands:

REG. NUMBER	DATE (D/M/Y)	PARTICULARS
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Nil.

**SCHEDULE "C"  
APPROVAL AND VESTING ORDER**

COURT FILE NUMBER 2101-08877

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF ATB FINANCIAL  
DEFENDANTS 732482 ALBERTA LTD., HAN SEUNG YOO, JAI HYUN YOO, HYE YOUNG YEO, JIN OK YEO, GAB BUN KIM, OK SOON KIM, SE JIN KIM, SUNG YEON KIM, YOUNG OK KIM and YO SUP KIM

DOCUMENT **APPROVAL AND VESTING ORDER  
(Sale by Receiver)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT Dentons Canada LLP  
Bankers Court  
15th Floor, 850 - 2nd Street S.W.  
Calgary, Alberta T2P 0R8  
Attn: Derek Pontin  
Ph. (403) 268-6301 Fx. (403) 268-3100  
File no. 507071-48

Clerk's Stamp

**DATE ON WHICH ORDER WAS PRONOUNCED:**

\_\_\_\_\_

**LOCATION WHERE ORDER WAS PRONOUNCED:**

\_\_\_\_\_

**NAME OF JUSTICE WHO MADE THIS ORDER:**

\_\_\_\_\_

**UPON THE APPLICATION** by BDO Canada Limited in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of the undertakings, property and

assets of 732482 Alberta Ltd. (the “**Debtor**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase and sale agreement (the “**Sale Agreement**”) between the Receiver and 2377142 ALBERTA INC. (the “**Purchaser**”) dated [Date] and appended to the First Report of the Receiver dated [Date] (the “**Report**”), and vesting in the Purchaser (or its nominee) the Debtor’s right, title and interest in and to the assets described in the Sale Agreement (the “**Purchased Assets**”);

**AND UPON HAVING READ** the Receivership Order dated September 3, 2021 (the “**Receivership Order**”), the Report and the Affidavit of Service; **AND UPON HEARING** the submissions of counsel for the Receiver, the Purchaser and \_\_\_\_\_, no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service, filed;

**IT IS HEREBY ORDERED AND DECLARED THAT:**

**SERVICE**

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this application and time for service of this application is abridged to that actually given.

**APPROVAL OF TRANSACTION**

2. The Transaction is hereby approved and execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for completion of the Transaction and conveyance of the Purchased Assets to the Purchaser (or its nominee).

**VESTING OF PROPERTY**

3. Upon delivery of a Receiver’s certificate to the Purchaser (or its nominee) substantially in the form set out in **Schedule “A”** hereto (the “**Receiver’s Closing**”

**Certificate**”), all of the Debtor’s right, title and interest in and to the Purchased Assets listed in **Schedule “A”** to the Sale Agreement shall vest absolutely in the name of the Purchaser (or its nominee), free and clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, **“Claims”**) including, without limiting the generality of the foregoing:

- (a) any encumbrances or charges created by the Receivership Order;
- (b) any charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system;
- (c) any liens or claims of lien under the *Builders’ Lien Act* (Alberta); and
- (d) those Claims listed in Schedule “C” hereto (all of which are collectively referred to as the **“Encumbrances”**, which term shall not include the permitted encumbrances, caveats, interests, easements, and restrictive covenants listed in Schedule “B” to the Sale Agreement (collectively, **“Permitted Encumbrances”**))

and for greater certainty, this Court orders that all Claims including Encumbrances other than Permitted Encumbrances, affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets.

4. Upon delivery of the Receiver’s Closing Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to below in this paragraph (collectively, **“Governmental Authorities”**) are hereby authorized, requested and directed to accept delivery of such Receiver’s Closing Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be

required to convey to the Purchaser or its nominee clear title to the Purchased Assets subject only to Permitted Encumbrances. Without limiting the foregoing:

(a) the Registrar of Land Titles (“**Land Titles Registrar**”) for the lands defined below shall and is hereby authorized, requested and directed to forthwith:

(i) cancel existing Certificate of Title No. 142 416 954 for those lands and premises municipally described as 5610 44 Street, Lloydminster, and legally described as:

PLAN 4847NY  
BLOCK 49  
LOT 38  
EXCEPTING THEREOUT ALL MINES AND MINERALS

(the “**Lands**”)

(ii) issue a new Certificate of Title for the Lands in the name of the Purchaser (or its nominee), namely, \_\_\_\_\_;

(iii) transfer to the New Certificate of Title the existing instruments listed in Schedule “D”, to this Order, and to issue and register against the New Certificate of Title such new caveats, utility rights of ways, easements or other instruments as are listed in Schedule “B” to the Sale Agreement; and

(iv) discharge and expunge the Encumbrances listed in Schedule “C” to this Order and discharge and expunge any Claims including Encumbrances (but excluding Permitted Encumbrances) which may be registered after the date of the Sale Agreement against the existing Certificate of Title to the Lands;

(b) the Registrar of the Alberta Personal Property Registry (the “**PPR Registrar**”) shall and is hereby directed to forthwith cancel and discharge any registrations at the Alberta Personal Property Registry (whether made before or after the date of this Order) claiming security interests (other than

Permitted Encumbrances) in the estate or interest of the Debtor in any of the Purchased Assets which are of a kind prescribed by applicable regulations as serial-number goods.

5. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the Sale Agreement. Presentment of this Order and the Receiver's Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Purchased Assets of any Claims including Encumbrances but excluding Permitted Encumbrances.
6. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery and performance by the Receiver of the Sale Agreement.
7. Upon delivery of the Receiver's Closing Certificate together with a certified copy of this Order, this Order shall be immediately registered by the Land Titles Registrar notwithstanding the requirements of section 191(1) of the *Land Titles Act*, RSA 2000, c.L-7 and notwithstanding that the appeal period in respect of this Order has not elapsed. The Land Titles Registrar is hereby directed to accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtor and not in its personal capacity.
8. For the purposes of determining the nature and priority of Claims, net proceeds from sale of the Purchased Assets (to be held in an interest bearing trust account by the Receiver) shall stand in the place and stead of the Purchased Assets from and after delivery of the Receiver's Closing Certificate and all Claims including Encumbrances (but excluding Permitted Encumbrances) shall not attach to, encumber or otherwise form a charge, security interest, lien, or other Claim against the Purchased Assets and may be asserted against the net proceeds from sale of the Purchased Assets with the same priority as they had with respect to the Purchased



Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale. Unless otherwise ordered (whether before or after the date of this Order), the Receiver shall not make any distributions to creditors of net proceeds from sale of the Purchased Assets without further order of this Court, provided however the Receiver may apply any part of such net proceeds to repay any amounts the Receiver has borrowed for which it has issued a Receiver's Certificate pursuant to the Receivership Order.

9. Except as expressly provided for in the Sale Agreement, the Purchaser (or its nominee) shall not, by completion of the Transaction, have liability of any kind whatsoever in respect of any Claims against the Debtor.
10. Upon completion of the Transaction, the Debtor and all persons who claim by, through or under the Debtor in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, save and except for persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely and forever barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any such persons or entities remain in the possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).
11. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by the Debtor, or any person claiming by, through or against the Debtor.
12. Immediately upon closing of the Transaction, holders of Permitted Encumbrances shall have no claim whatsoever against the Receiver.

13. The Receiver is directed to file with the Court a copy of the Receiver's Closing Certificate forthwith after delivery thereof to the Purchaser (or its nominee).
14. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada) and section 20(e) of the *Alberta Personal Information Protection Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser (or its nominee) all human resources and payroll information in the Debtor's records pertaining to the Debtor's past and current employees. The Purchaser (or its nominee) shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use (of such information) to which the Debtor was entitled.

#### **MISCELLANEOUS MATTERS**

15. Notwithstanding:
  - (a) the pendency of these proceedings and any declaration of insolvency made herein;
  - (b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended (the "BIA"), in respect of the Debtor, and any bankruptcy order issued pursuant to any such applications;
  - (c) any assignment in bankruptcy made in respect of the Debtor; and
  - (d) the provisions of any federal or provincial statute:

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

16. The Receiver, the Purchaser (or its nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.
  
17. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, 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 order and to provide such assistance to the Receiver, as an officer of the 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.
  
18. Service of this Order shall be deemed good and sufficient by:
  - (a) Serving the same on:
    - (i) the persons listed on the service list created in these proceedings;
    - (ii) any other person served with notice of the application for this Order;
    - (iii) any other parties attending or represented at the application for this Order;
    - (iv) the Purchaser or the Purchaser's solicitors; and
  - (b) Posting a copy of this Order on the Receiver's website at: \_\_\_\_\_and service on any other person is hereby dispensed with.

19. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

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Justice of the Court of Queen's Bench of  
Alberta

**Schedule "A"**

**Form of Receiver's Certificate**

COURT FILE NUMBER

COURT

COURT OF QUEEN'S BENCH OF  
ALBERTA

JUDICIAL CENTRE

PLAINTIFF

DEFENDANT

DOCUMENT

**RECEIVER'S CERTIFICATE**

Clerk's Stamp

ADDRESS FOR SERVICE  
AND  
CONTACT INFORMATION  
OF  
PARTY FILING THIS  
DOCUMENT

**RECITALS**

**ARTICLE 1** Pursuant to an Order of the Honourable Justice **[Name]** of the Court of Queen's Bench of Alberta, Judicial District of \_\_\_\_\_ (the "Court") dated **[Date of Order]**, **[Name of Receiver]** was appointed as the receiver (the "Receiver") of the undertakings, property and assets of **[Debtor]** (the "Debtor").

**ARTICLE 2** Pursuant to an Order of the Court dated **[Date]**, the Court approved the agreement of purchase and sale made as of **[Date of Agreement]** (the "Sale Agreement") between the Receiver and **[Name of Purchaser]** (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased

Assets; (ii) that the conditions to Closing as set out in section \* of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

**ARTICLE 3** Unless otherwise indicated herein, capitalized terms have the meanings set out in the Sale Agreement.

**THE RECEIVER CERTIFIES** the following:

- A. The Purchaser (or its nominee) has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
- B. The conditions to Closing as set out in section \* of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser (or its nominee); and
- C. The Transaction has been completed to the satisfaction of the Receiver.
- D. This Certificate was delivered by the Receiver at [Time] on [Date].

**[Name of Receiver], in its capacity as Receiver of the undertakings, property and assets of [Debtor], and not in its personal capacity.**

**Per;** \_\_\_\_\_

**Name:**

**Title:**

## APPENDIX “B”

Contract Number \_\_\_\_\_

# RESIDENTIAL RESALE CONDOMINIUM PROPERTY PURCHASE CONTRACT

Between

**THE SELLER**

and

**THE BUYER**

Name BDO Canada Limited, in its capacity as Receiver and Manager of 732482 Alberta Ltd. and not in its personal or corporate capacity

Name EMMA THOMAS

Name \_\_\_\_\_

Name \_\_\_\_\_

## 1. THE PROPERTY

### 1.1. The Property is:

(a) the condominium unit located at:

Municipal address: 5101 18<sup>th</sup> Street 112A  
(street number and name)

Lloydminster, Alberta T9V  
2G7 (municipality) (postal code)

Project name: \_\_\_\_\_

Legal description of titled units:

Residential unit — Condominium Plan: 0721242 Unit: 10 Unit factor: \_\_\_\_\_

Parking unit(s) — Condominium Plan: \_\_\_\_\_ Unit(s): \_\_\_\_\_ Unit factor(s): \_\_\_\_\_

Storage unit(s) — Condominium Plan: \_\_\_\_\_ Unit(s): \_\_\_\_\_ Unit factor(s): \_\_\_\_\_

(b) these non-titled, assigned or leased areas:

Parking — Stalls assigned: \_\_\_\_\_ Stalls leased: \_\_\_\_\_ Stall numbers: \_\_\_\_\_

Storage — Spaces assigned: \_\_\_\_\_ Spaces leased: \_\_\_\_\_ Space numbers: \_\_\_\_\_

(c) these unattached goods \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(d) these attached goods

Water Heater  
\_\_\_\_\_

## 2. PURCHASE PRICE AND COMPLETION DAY

2.1. The Purchase Price is \$ **REDACTED**

2.2. The Purchase Price includes any applicable Goods and Services Tax (GST).

2.3. This contract will be completed, the Purchase Price fully paid and vacant possession given to the buyer at 12 noon (MT) on the date that is the fifteenth day after the sale has been approved by an Order of the Alberta Court of Queen's Bench (Completion Day).

2.4. ~~The seller represents and warrants that on Completion Day, the Property will be in substantially the same condition as when this contract was accepted and the attached and unattached goods will be in normal working order.~~

Authentisign  
**ET**

*[Handwritten Signature]*

Seller's Initials

*[Handwritten Signature]*

Buyer's Initials

Authentisign  
**ET**



Residential Resale Condominium Property Purchase Contract  
Contract Number \_\_\_\_\_

3. GENERAL TERMS

- 3.1. In fulfilling this contract, the seller and buyer agree to act reasonably and in good faith and agree that:
- (a) unless the seller, buyer or both have agreed to alternate representation, the seller and buyer are each represented by their own sole agent and those agents have no agency responsibility to the other party;
  - (b) the laws of Alberta apply to this contract;
  - (c) Alberta time applies to this contract. Time is of the essence, which means times and dates will be strictly followed and enforced;
  - (d) Business Day means every day but Saturday, Sunday and statutory holidays and includes all the hours of the day;
  - (e) a reference to the seller or buyer includes singular, plural, masculine and feminine;
  - (f) ~~the seller will disclose known Material Latent Defects. Material Latent Defect means a defect in the Property that is not discoverable through a reasonable inspection and that will affect the use or value of the Property;~~
  - (g) the seller and buyer are each responsible for completing their own due diligence and will assume all risks if they do not;
  - (h) ~~the seller will ensure the seller's representations and warranties are true by:~~
    - (i) ~~reviewing land title and registrations on title;~~
    - (ii) ~~reviewing a Real Property Report (RPR) for the Property if the Property is a bare land unit;~~
    - (iii) ~~determining non-resident status for income tax purposes and determining any dower rights;~~  
and
    - (iv) ~~doing other needed research;~~
  - (i) the buyer may get independent inspections or advice on items such as condominium documents, RPR for a bare land unit, land title, registrations on title, current and future use, buildings and mechanical systems, property insurance, title insurance, size of the land and buildings, interior and exterior measurements and other items important to the buyer;
  - (j) sections 12 and 13 of the *Condominium Property Act* (Alberta) relating to sale of units by developers and rescission of purchase agreement do not apply;
  - (k) contract changes that are agreed to in writing, including the Schedule A Rider to this agreement, will supersede the pre-printed clauses;
  - (l) the seller and buyer will read this contract and seek relevant advice before signing it;
  - (m) the brokerages, real estate board and listing services may keep and disclose relevant information about this transaction for reporting, statistical, property evaluation and closing purposes; and
  - (n) the \_\_\_\_\_ (seller's or buyers) brokerage will provide this contract and related documents to the appointed lawyers for the purpose of closing this contract.

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4. DEPOSITS

- 4.1. The seller and buyer agree that clauses 4.2 through 4.8 are the terms of trust for the deposits.
- 4.2. The seller and buyer appoint Dentons Canada LLP as trustee for the deposit money.
- 4.3. The buyer will pay a deposit of \$3,000.00, which will form part of the Purchase Price, to the trustee by wire transfer within three (3) Business Days of acceptance of this Agreement.
- 4.4. The buyer will pay an additional deposit of \$ \_\_\_\_\_, which will form part of the Purchase Price, to the trustee by \_\_\_\_\_, on or before \_\_\_\_\_ (method of payment)
- 4.5. If the buyer fails to pay a deposit by the agreed date, the seller may void this contract at the seller's option by giving the buyer written notice. The seller's option expires when the seller accepts a deposit, even if late.
- 4.6. The trustee will deposit all deposits into a trust account within three Business Days of receipt.
- 4.7. Interest on the deposits will not be paid to the seller or buyer.
- 4.8. The deposits will be held in trust for both the seller and buyer. Provided funds are confirmed, the deposits will be disbursed, without prior notice, as follows:
  - (a) to the buyer, if after this contract is accepted:
    - (i) a condition is not satisfied or waived in accordance with clause 8.4;

Seller's Initials W Buyer's Initials ET

Residential Resale Condominium Property Purchase Contract  
Contract Number \_\_\_\_\_

- (ii) ~~the buyer voids this contract for the seller's failure to provide a Dower Consent and Acknowledgment form in accordance with clause 7.1(b);~~
- (iii) ~~the seller voids this contract for the buyer's failure to pay a deposit; or~~
- (iv) ~~the seller fails to perform this contract;~~
- (b) ~~to the seller, if this contract is accepted and all conditions are satisfied or waived and the buyer fails to perform this contract; or~~
- (c) ~~applied against the Fee owed by the seller by payment directly out of trust to the brokerage(s), with any excess amount paid in trust to the seller's lawyer no later than three Business Days prior to the Completion Day. Fee means the amount, plus GST, owed to a real estate brokerage under a written service agreement.~~

4.9. The disbursement of deposits, as agreed to in this section, will not prevent the seller or buyer from pursuing remedies in section 12.

5. LAND TITLE

- 5.1. Title to the Property will be free of all encumbrances, liens and interests except for:
- (a) those implied by law;
  - (b) non-financial obligations now on title such as easements, utility rights-of-way, covenants and conditions that are normally found registered against property of this nature;
  - (c) homeowner association caveats, encumbrances and similar registrations; and
  - (d) items the buyer agrees to assume in this contract.

This clause 5.1 not being a representation or warranty, but subject to and dependent upon the approval by the Court of Queen's Bench of an Approval and Vesting Order.

6. REPRESENTATIONS AND WARRANTIES

6.1. The seller makes no representations and warranties of any kind.

~~The seller represents and warrants to the buyer that:~~

- (a) ~~the seller has the legal right to sell the Property;~~
- (b) ~~the seller is not a non-resident for the purposes of the *Income Tax Act* (Canada);~~
- (c) ~~no one else has a legal right to the included attached and unattached goods;~~
- (d) ~~the current use of the land and buildings complies with the existing municipal land use bylaw and any restrictive covenant on title;~~
- (e) ~~the location of the buildings and land improvements:~~
  - (i) ~~is on the land and not on any easement, right of way or neighbouring lands unless there is a registered agreement on title or, in the case of an encroachment into municipal lands or a municipal easement or right of way, the municipality has approved the encroachment in writing; and~~
  - (ii) ~~complies with any restrictive covenant on title and municipal bylaws, regulations and relaxations, or the buildings and improvements are "non-conforming buildings" as defined in the *Municipal Government Act* (Alberta);~~
- (f) ~~known Material Latent Defects, if any, have been disclosed in writing in this contract; and~~
- (g) ~~any government and local authority notices regarding the Property, and lack of permits for any development on the Property, known to the seller have been disclosed in writing in this contract.~~

- 6.2. The representations and warranties in this contract:
- (a) are made as of, and will be true at, the Completion Day; and
  - (b) will survive completion and may be enforced after the Completion Day as long as any legal action is commenced within the time limits set by the *Limitations Act* (Alberta).

7. DOWER

- 7.1. The seller represents and warrants to the buyer that no spouse has dower rights in the Property. Otherwise, if dower rights do apply, the seller will:
- (a) have the non-owner spouse sign this contract; and
  - (b) provide a completed Dower Consent and Acknowledgment form to be attached to and form part of this contract on or before \_\_\_\_\_, 20\_\_\_\_\_. (seller to enter an appropriate date.)

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ET 09/16/21

Seller's Initials W Buyer's Initials ET



Residential Resale Condominium Property Purchase Contract  
Contract Number \_\_\_\_\_

If the seller fails to provide the completed Dower Consent and Acknowledgment form by the agreed date, the buyer may void this contract at the buyer's option by giving the seller written notice. The buyer's option expires when the seller delivers the Dower Consent and Acknowledgment form, even if delivered late.

8. CONDITIONS

8.1 The seller and buyer will:



- (a) act reasonably and in good faith in trying to satisfy their own conditions, including making reasonable efforts to fulfill them; and
- (b) pay for any costs related to their own conditions, except for the providing of documents in the Condominium Documents Condition.

8.2. Buyer's Conditions

The buyer's conditions are for the benefit of the buyer and are:

(a) **Condominium Documents**

(i) This contract is subject to the buyer's satisfaction with a review of the Documents before \_\_\_\_\_ m. on \_\_\_\_\_, 20\_\_\_\_ (Condition Day). Documents means documents as are available from the condominium corporation from the list below:

- (1) a statement setting out the amount of any contributions due and payable in respect of the unit
- (2) the particulars of:
  - i. any action commenced against the corporation and served on the corporation
  - ii. any unsatisfied judgment or order for which the corporation is liable
  - iii. any written demand made on the corporation for an amount in excess of \$5,000 that, if not met, may result in an action being brought against the corporation
- (3) the particulars of, or a copy of, any subsisting management agreement
- (4) the particulars of, or a copy of, any subsisting recreational agreement
- (5) the particulars of any post tensioned cables located anywhere on or within the property that is included in the condominium plan
- (6) a copy of the budget of the corporation
- (7) a copy of the most recent financial statements, if any, of the corporation, including the most recent year end and month end statements
- (8) a copy of the bylaws of the corporation
- (9) a copy of the most recent approved and most recent draft minutes of the annual general meeting
- (10) a copy of the minutes and draft minutes of meetings of the board of directors of the corporation for not less than the past 12 months
- (11) a statement setting out the amount of the capital replacement reserve fund
- (12) a copy of the reserve fund report
- (13) a copy of the reserve fund plan
- (14) a statement setting out the amount of the monthly contribution (commonly referred to as condominium fee) and the basis on which that amount was determined
- (15) a statement setting out any structural deficiencies that the corporation has knowledge of, at the time of the request, in any of the buildings that are included in the condominium plan
- (16) a copy of any lease agreement or exclusive use agreement with respect to the possession of a portion of the common property, including a parking stall or storage space
- (17) a copy of the registered condominium plan
- (18) a copy of the condominium additional plan sheet certificate (CADS)
- (19) a copy of the insurance certificate
- (20) the amount of any homeowner association fee
- (21) a copy of any proposed special resolution awaiting a vote
- (22) a copy of any special resolution that has been passed but not yet implemented
- (23) a copy of any easement, covenants and restrictions (ECR) agreement
- (24) a copy of any other building or site report such as a building assessment report, building envelope report, geo-technical report, technical audit, performance audit
- (25) Other: \_\_\_\_\_


(ii) The seller will cooperate by providing to the buyer, at the seller's cost, true copies of the Documents before \_\_\_\_\_ m. on \_\_\_\_\_, 20\_\_\_\_ (Document Delivery Day).

Seller's Initials \_\_\_\_\_


Buyer's Initials \_\_\_\_\_

Residential Resale Condominium Property Purchase Contract  
Contract Number \_\_\_\_\_


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- (iii) If the seller does not provide the Documents before the Document Delivery Day, the buyer may, at the buyer's option, obtain the Documents.
- (iv) To exercise the buyer's option, the buyer will give written notice to the seller before the Condition Day of the buyer's intent to obtain the Documents and the Condition Day will extend to \_\_\_\_\_ m. on \_\_\_\_\_, 20\_\_\_\_\_.
- (v) The buyer's costs to obtain the Documents will be invoiced to the seller and may include reasonable costs such as Land Titles Office fees, condominium manager fees, board fees and solicitor/client legal fees and disbursements. The buyer may require the seller to pay the invoiced amount to the buyer within 30 days of invoice date or have the amount adjusted for on Completion Day.

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- (b) **Financing**  
This contract is subject to the buyer securing new financing, not to exceed \_\_\_\_\_ % of the Purchase Price from a lender of the buyer's choice and with terms satisfactory to the buyer, before \_\_\_\_\_ 4PM MT \_\_\_\_\_ m. on ~~SEPT 28th~~ SEPT 28th 2021 (Condition Day). The seller will cooperate by providing access to the Property on reasonable terms.

- (c) **Property Inspection**  
This contract is subject to the buyer's satisfaction with a property inspection, conducted by a licensed home inspector, payable by the buyer, before \_\_\_\_\_ 4PM MT \_\_\_\_\_ m. on ~~SEPT 30th~~ SEPT 30th 2021 (Condition Day). The seller will cooperate by providing access to the Property on reasonable terms.

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- (d) **Sale of Buyer's Property**  
This contract is subject to the sale of the buyer's property before \_\_\_\_\_ m. on \_\_\_\_\_ 20\_\_\_\_\_ (Condition Day), on the terms in the Sale of Buyer's Property Schedule, selected as attached in clause 9.1.
- (e) **Additional Buyer's Conditions**

- (i) ~~Seller to have carpets and condo unit professionally cleaned on or before possession.~~

**8.3. Seller's Conditions**

The seller's conditions are for the benefit of the seller and are: \_\_\_\_\_ SEE SCHEDULE A  
\_\_\_\_\_  
before \_\_\_\_\_ m. on \_\_\_\_\_, 20\_\_\_\_\_ (Condition Day).

**8.4. Condition Notices**

Each party will give the other written notice that:  
(a) a condition is unilaterally waived or satisfied on or before its Condition Day. If not, this contract will end after the time indicated for that Condition Day; or  
(b) a condition will not be waived or satisfied prior to its Condition Day. This contract will end upon that notice being given.

**9. ATTACHMENTS AND ADDITIONAL TERMS**

- 9.1. The selected documents are attached to and form part of this contract:
  - Financing Schedule (Seller Financing, Mortgage Assumption, Other Value)
  - Tenancy Schedule
  - Manufactured Home Schedule
  - Sale of Buyer's Property Schedule
  - Addendum
  - Other See Schedule A

9.2. This Agreement remains subject to the Rider attached hereto as Schedule "A" and should any conflict be found between the terms and conditions in this Agreement and the Rider, the terms and conditions set out in the Rider shall prevail.

**9.3. Current condominium unit contributions and fees**

To the best of the seller's knowledge and to be verified by the buyer:  
(a) the total current monthly contribution for the Property's titled units is: \$ \_\_\_\_\_; and  
(b) the total current monthly fee for any non-titled, assigned or leased areas is: \$ \_\_\_\_\_

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Seller's Initials W Buyer's Initials 



Residential Resale Condominium Property Purchase Contract

Contract Number \_\_\_\_\_

9.4. Other terms: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. CLOSING PROCESS

Closing Documents

- 10.1. No later than ten (10) days prior to the Completion Day (except in the event the buyer obtains title insurance to close the transaction contemplated herein, in which case, on or any time prior to the Completion Day), or such other date as agreed upon in writing by the Parties, the seller or seller's lawyer will deliver normal closing documents to the buyer or buyer's lawyer upon reasonable trust conditions consistent with the terms of this contract.
- 10.2. If the Property is a bare land unit, closing documents will include an RPR showing the current improvements on the Property according to the Alberta Land Surveyors' Association Manual of Standard Practice, with evidence of municipal compliance or non-conformance and confirming the seller's warranties about the land and buildings. This obligation will not apply if there are no structures on the land. The buyer or buyer's lawyer must have a reasonable time to review the RPR prior to submitting the transfer documents to the Land Titles Office.

Payments and Costs

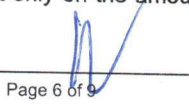
- 10.3. The buyer will pay the Purchase Price by lawyer's trust cheque or bank draft.
- 10.4. ~~Regardless of when a resolution for a special assessment contribution states that a levied payment is due and payable:~~
  - ~~(a) the seller is responsible for special assessment payments passed by a resolution on or before 12 noon on Completion Day and will make such payments on or before Completion Day; and~~
  - ~~(b) the buyer is responsible for special assessment payments passed by a resolution after 12 noon on Completion Day.~~
- 10.5. Items such as real estate property taxes, local improvement fees, utilities, rents, security deposits, statutory interest on security deposits, mortgage interest, homeowner association fees and monthly condominium contributions will be the seller's responsibility for the entire Completion Day and thereafter assumed by the buyer.
- 10.6. ~~The seller's lawyer may use the Purchase Price to pay and discharge all of the seller's financial obligations related to the Property. The seller's lawyer will provide the buyer's lawyer, within a reasonable time after Completion Day:~~
  - ~~(a) evidence of all discharges including, where required, a certified copy of the certificate of title; and~~
  - ~~(b) an estoppel certificate, effective as of Completion Day, verifying payment of all applicable condominium contributions.~~
- 10.7. If the seller has entered into a written service agreement with a real estate brokerage, the seller instructs the seller's lawyer to honour the terms of that agreement, including the Fee and other costs payable to the seller's brokerage.
- 10.8. The seller will pay the costs to prepare the closing documents, including an RPR where required, costs to end an existing tenancy of the Property and provide vacant possession to the buyer, and costs to prepare, register and discharge any seller's caveat based on this contract.
- 10.9. The buyer will pay the costs to prepare, register and discharge any buyer's caveat based on this contract and to register the transfer of land.

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Closing Day Delays

- 10.10. If the seller fails to deliver the closing documents in accordance with clause 10.1 or 10.2, then:
  - (a) the buyer's payment of the Purchase Price and late interest will be delayed until the buyer or buyer's lawyer has received the closing documents and has a reasonable time to review and register them, obtain the advance of mortgage financing and verify the transfer of other value items; and
  - (b) if the buyer is willing and able to close in accordance with this contract and wants to take possession of the Property, then the seller will give the buyer possession upon reasonable terms which will include the payment of late interest only on the amount of mortgage being obtained by the buyer at the interest rate of that mortgage.

Seller's Initials \_\_\_\_\_



Buyer's Initials \_\_\_\_\_

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# Residential Resale Condominium Property Purchase Contract

Contract Number \_\_\_\_\_

- 10.11. If the seller has complied with clauses 10.1 and 10.2 but the buyer is not able to close in accordance with this contract, then:
  - (a) the seller may, but is not obligated to, accept late payment of the Purchase Price and give the buyer possession upon reasonable terms; and
  - (b) if the seller agrees to accept late payment of the Purchase Price and, whether or not possession is granted, the buyer will pay late interest at the prime lending rate of the **ATB Financial** at the Completion Day plus 3% calculated daily from and including the Completion Day to (but excluding) the day the seller is paid in full. Payment received after 12 noon MT on any day will be payment as of the next Business Day.

10.12. The seller and buyer will instruct their lawyers to follow the Western Law Societies Conveyancing Protocol in the closing of this transaction, if appropriate.

## 11. INSURANCE

11.1. The seller bears the risk of loss or damage to the Property until the Purchase Price is paid. If such loss or damage occurs before the Purchase Price is paid, any insurance proceeds will be held in trust for the seller and buyer based on their interests.

## 12. REMEDIES

12.1. ~~If the seller or buyer fails or refuses to complete this contract, the other party may seek all remedies, such as claims for deposits and damages, and reasonable costs including legal fees and disbursements on a solicitor/client full indemnity basis.~~

12.2. On buyer default, if the seller must restore the Property title, enforce a lien against the Property or regain possession of the Property, the seller may seek costs and other remedies.

12.3. ~~The seller and buyer agree that the Property is unique. On seller default, the buyer may make a claim for specific performance and other remedies.~~

## 13. NOTICE AND DOCUMENTS

13.1. A notice under this contract means a written document, including notices required by this contract, and this contract when accepted.

13.2. A notice is effective at the time the document is delivered in person or sent by fax or email.

13.3. Giving notice means the document is transmitted by one of these methods, and regardless of the method, the notice document is recognized as an original document.

13.4. For documents that require a signature, an electronic signature, as defined in the *Electronic Transactions Act* (Alberta), or a digitized signature will have the same function as an ink signature.

## 14. AUTHORIZATION

14.1. The seller and buyer may each authorize a representative to send and receive notices as described above. Once authorized, notices will be effective upon being delivered in person or sent by fax or email to the authorized representative.

The seller authorizes

### Seller's Brokerage:

Name: RE/MAX OF LLOYDMINSTER

Address: 5726 - 44 Street, Lloydminster, AB T9V 0B6

### Brokerage Representative:

Name: Dave Kadun

Phone: 780-808-2700

Fax: \_\_\_\_\_

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

The buyer authorizes:

### Buyer's Brokerage:

Name: RE/MAX OF LLOYDMINSTER

Address: 5726 - 44 Street, Lloydminster, AB T9V 0B6

### Brokerage Representative:

Name: Harpreet Christie

Phone: 780-808-2700

Fax: \_\_\_\_\_

Email: harpreet@bordercityrealestate.com

Seller's Initials W ET

Buyer's Initials ET



Residential Resale Condominium Property Purchase Contract  
Contract Number \_\_\_\_\_

14.2. If the seller or buyer does not authorize a brokerage, then:

The seller authorizes: \_\_\_\_\_

The buyer authorizes: \_\_\_\_\_

14.3. If the authorization information changes, the seller and buyer agree to give written notice to the other party as soon as the change is known so that future notices may be sent to the proper person and place.

15. CONFIRMATION OF CONTRACT TERMS

15.1. The seller and buyer confirm that this contract sets out all the rights and obligations they intend for the purchase and sale of the Property and that:

- (a) this contract is the entire agreement between them; and
- (b) unless expressly made part of this contract, in writing:
  - (i) verbal or written collateral or side agreements or representations or warranties made by either the seller or buyer, or the seller's or buyer's brokerage or agent, have not and will not be relied on and are not part of this contract; and
  - (ii) any pre-contractual representations or warranties, howsoever made, that induced either the seller or buyer into making this contract are of no legal force or effect.

Seller initials \_\_\_\_\_

Buyer initials \_\_\_\_\_

16. LEGAL OBLIGATIONS BEGIN

16.1. The legal obligations in this contract begin when the accepted contract is delivered in person or sent by fax or email. The obligations bind the seller and buyer as well as their heirs, administrators, executors, successors and assigns.

17. OFFER

17.1. The buyer offers to buy the Property according to the terms of this contract.

17.2. This offer/counter offer will be open for written acceptance until 5:00 PM \_\_\_\_\_  
\_\_\_\_\_m. on SEPT 22, 2021.

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Signed and dated at LLOYDMINSTER, Alberta at 6:50 PM .m. on 09/20/21 2021

Emma Thomas

Buyer Signature \_\_\_\_\_ Witness Signature \_\_\_\_\_ Witness Name (print) \_\_\_\_\_

Signed and dated at \_\_\_\_\_, Alberta at \_\_\_\_\_ .m. on \_\_\_\_\_ 20\_\_\_\_\_

Buyer Signature \_\_\_\_\_ Witness Signature \_\_\_\_\_ Witness Name (print) \_\_\_\_\_

18. ACCEPTANCE

18.1. The seller agrees to sell the Property according to the terms of this contract.

Signed and dated at CALGARY, Alberta at 8:00 p.m. on Sept 20 2021

BDO Canada Limited - solely in its capacity as Receiver of 732452 Alberta Ltd. and not in its personal or corporate capacity

Seller

Buyer Signature Kevin Meyer, SRP Witness Signature \_\_\_\_\_ Witness Name (print) \_\_\_\_\_

Signed and dated at \_\_\_\_\_, Alberta at \_\_\_\_\_ .m. on \_\_\_\_\_ 20\_\_\_\_\_

Buyer Signature \_\_\_\_\_ Witness Signature \_\_\_\_\_ Witness Name (print) \_\_\_\_\_

Seller's Initials W Buyer's Initials ET

Residential Resale Condominium Property Purchase Contract  
Contract Number \_\_\_\_\_

**Non-owner spouse signature (when dower rights apply):**

Signed and dated at \_\_\_\_\_, Alberta at \_\_\_\_\_ m. on \_\_\_\_\_ 20\_\_\_\_

Non-Owner Spouse Signature \_\_\_\_\_ Non-Owner Spouse Name (print) \_\_\_\_\_

Witness Signature \_\_\_\_\_ Witness Name (print) \_\_\_\_\_

**The following is for information purposes and has no effect on the contract's terms:**

**REJECTION**

I do not accept this offer/counter offer. No counter offer is being made.

Date: \_\_\_\_\_ Date: \_\_\_\_\_

Seller: \_\_\_\_\_ Buyer: \_\_\_\_\_

**CONVEYANCING INFORMATION**

**Seller's Information:**

**Buyer's Information:**

Address \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Email \_\_\_\_\_

Email \_\_\_\_\_

Lawyer Name \_\_\_\_\_

Lawyer Name \_\_\_\_\_

Firm \_\_\_\_\_

Firm \_\_\_\_\_

Address \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Email \_\_\_\_\_

Email \_\_\_\_\_

Seller's Initials \_\_\_\_\_

*W*

Buyer's Initials \_\_\_\_\_

*ET*



Residential Resale Condominium Property Purchase Contract  
*Contract Number*

**Schedule A  
Rider**

(See attached)

**Seller's Initials**

W

**Buyer's Initials**

ET

**SCHEDULE "A" TO THE REAL ESTATE PURCHASE CONTRACT** entered into between

BDO CANADA LIMITED., in its capacity as the receiver and manager (the "**Receiver**") of 732482 Alberta Ltd., and not in its personal or corporate capacity (collectively, the "**Seller**")

and

Emma Thomas (the "**Buyer**")

The terms of this schedule replace, modify or add to the terms of the agreement of purchase and sale (the "**Real Estate Purchase Contract**") to which this schedule is attached. Where there is any inconsistency between the terms of this Schedule and the Real Estate Purchase Contract, the provisions of this Schedule shall prevail.

**AS IS - WHERE IS**

1. The Buyer acknowledges and agrees to purchase the condominium, all buildings and improvements located on the condominium (the "**Property**"), and any and all fixtures ("**Attached Goods**") and chattels ("**Unattached Goods**") included in the Real Estate Purchase Contract or included in the sale of the property, "as is, where-is" and agrees with the Seller that neither the Seller, nor its agents or representatives have made any representations or warranties with respect to the Property or any Attached Goods or Unattached Goods included in the sale of the Property. Without limiting the generality of the foregoing, the Buyer agrees that neither the Seller nor its agents have made any representations or warranties with respect to:
  - (a) the condition of any buildings or improvements located on the Property;
  - (b) the condition of any Attached Goods or Unattached Goods included in the Real Estate Purchase Contract or otherwise sold with the Property;
  - (c) whether the Property complies with any existing land use or zoning bylaws or regulations, or municipal development agreements or plans;
  - (d) the location of any buildings and other improvements on the Property and whether such location complies with any applicable municipal bylaws or regulations;
  - (e) whether or not any buildings or improvements located on the Property encroach onto any neighbouring lands or any easements or rights of way;
  - (f) whether or not any buildings or improvements located on any neighbouring lands encroach onto the Property;
  - (g) the size and dimensions of the Property or any building or improvements located thereon;
  - (h) whether or not the Property is contaminated with any hazardous substance;
  - (i) any amounts due, owing or payable presently and from time to time in respect of condominium contributions, condominium fees, condominium assessments without limitation including special assessments;



- (j) the condominium plan, corporate existence, management, meetings and meeting minutes, status, liabilities, budgets, financials, reserve fund, insurance, assessments, reports, audits, covenants, restrictions and bylaws; and
- (k) whether or not any of the buildings or other improvements located on the Property have been insulated with urea formaldehyde insulation.

#### OWNERSHIP OF UNATTACHED GOODS

- 2. The Buyer agrees that the Seller is selling only such interest as it may have in any Attached Goods or Unattached Goods referred to in the Real Estate Purchase Contract, or which may be located on the Property, and the Seller does not warrant that it has title to such Attached Goods or Unattached Goods. Further, the Buyer agrees that the Seller will not be liable for the removal of any chattels found on the Property prior to or on the date of closing. On closing, the Buyer may have possession of the Attached Goods and Unattached Goods which are then on or about the Property on an "as is, where-is" basis, and the Seller will not provide a Bill of Sale, Warranty, or other title document to the Buyer other than a sale approval and vesting order granted by the Court. Further, there will be no adjustment or abatement of any kind to the Purchase Price with respect to any Attached Goods or Unattached Goods.

#### REAL PROPERTY REPORT & COMPLIANCE

- 3. The Seller is not required to provide the Buyer with a real property report or compliance certificate. Should the Seller provide the Buyer with a copy of a survey or real property report, the Buyer agrees that any use of or reliance upon such document shall be at the Buyer's own risk. The Buyer must satisfy itself that the survey or real property report which the Seller might provide accurately reflects the Property and the buildings and improvements located thereon as they currently exist and the Seller shall not be responsible for any errors or omissions which might exist on such document. The Seller does not represent or warrant the accuracy or validity of the said survey or real property report or compliance certificate.

#### GOODS AND SERVICES TAX (GST)

- 4. The Buyer shall pay to the Seller and indemnify the Seller against all Goods and Services Tax ("**GST**") applicable to and payable on the purchase price as required by the *Excise Tax Act* (Canada). The Seller will not provide to the Buyer a Certificate of Exempt Supply, or any other certificate certifying that this purchase and sale transaction is not subject to the Goods and Services Tax. Should the Seller fail to collect GST from the Buyer, it shall not be construed by the Buyer as a certification by the Seller that no GST is payable by the Buyer hereunder, and the Buyer shall remain liable for any GST which might be payable with respect to this transaction.
- 5. GST is included in the Purchase Price, as set out in the agreement.

#### SELLER'S CONDITIONS

- 6. The following are the "Seller's Conditions" at [section 8.3 of the Real Estate Purchase Contract]:
  - (a) The Real Estate Purchase Contract is subject to approval of the Court of Queen's Bench of Alberta in the manner of a Sale Approval and Vesting Order, in form and substance acceptable to Seller in its discretion.





- (b) On the Completion Date, no person entitled by law to do so shall have redeemed the Property.
- (c) On the Completion Date, approval of the Court of Queen's Bench of Alberta shall be in full force and effect, the time for appeal of such approval will have passed, and no notice of appeal shall have been filed or served.
- (d) On the Completion Date, no part of the Property shall have been removed from the control of the Seller by any means or process and no restriction or limitation shall exist upon the Seller's ability to sell.
- (e) On the Completion Date, no action or proceeding, at law or equity, shall have been commenced or threatened by any person to enjoin, to restrict or prohibit the completion of the transaction contemplated by this Real Estate Purchase Contract that has not at the Completion Date been dismissed, quashed or permanently stayed without any further rights of appeal or leave to appeal.
- (f) The Buyer has paid to the Seller all amounts required to be paid by the Buyer under this Real Estate Purchase Contract.
- (g) The buyer has performed all of its obligations and covenants under this Real Estate Purchase Contract to the extent required, on or before the Completion Date.

ADDITIONAL TERMS

7. The following are the "Additional Terms" at [section 9.4 of the Real Estate Purchase Contract]:
- (a) Possession of the Property will not be granted to the Buyer until the full cash to close is paid and releasable to the Seller.
  - (b) The Buyer acknowledges and agrees that until this Real Estate Purchase Contract is approved by the Court in the receivership proceedings, the Seller's obligation in connection with this Real Estate Purchase Contract is limited to considering it and, if accepted by the Seller, putting the Real Estate Purchase Contract before the Court for approval. Thereafter, the Buyer acknowledges that the Seller is subject to the jurisdiction and discretion of the Court to entertain other offers and any further directions or orders the Court may make regarding the Property. The Seller gives no assurance or undertaking to advocate the approval of this Real Estate Purchase Contract by the Court. The Buyer acknowledges that it must make its own arrangements to support the approval of this Real Estate Purchase Contract in Court.
  - (c) The Property will remain subject to the following Permitted Encumbrances after the sale:

<u>Registration Number</u>	<u>Date</u> <u>(D/M/Y)</u>	<u>Particulars</u>
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052 298 467

21/07/2005 UTILITY RIGHT OF WAY

GRANTEE - THE CITY OF LLOYDMINSTER.

AS TO PORTION OR PLAN:0523825

ACCEPTANCE BY FACSIMILE

8. The Seller and Buyer agree that this contract may be signed in counterpart, and the acceptance of this offer communicated or confirmed by facsimile transmission shall be binding upon the parties. The Buyer agrees to promptly deliver an executed original Real Estate Purchase Contract to the Seller.

RECEIVERSHIP PROCEEDING

9. This offer is being made pursuant to or in a Court of Queen's Bench receivership proceeding and, as such, the Offer may be accepted only by Order of said Court and is subject to the terms of that Order. Any agreement arising out of the Seller's acceptance of this Offer is conditional upon the approval thereof by the said Court.



\_\_\_\_\_  
Buyer's Initial

09/16/21

\_\_\_\_\_  
Date

