



COURT FILE NUMBER 1801-08520

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF INNOVATION CREDIT UNION AND CONCENTRA BANK

DEFENDANTS 1764239 ALBERTA LTD., OSTRANDER FAMILY HOLDINGS LTD., AND BRIAN OSTRANDER

DOCUMENT **SECOND REPORT OF THE COURT APPOINTED RECEIVER OF 1764239 ALBERTA LTD.**

**DATED MAY 28, 2021**

**PREPARED BY DELOITTE RESTRUCTURING INC.**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

Counsel

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Receiver

Deloitte Restructuring Inc.  
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## Introduction and background

1. On the 22nd day of July, 2020 (the "**Date of Receivership**"), Deloitte Restructuring Inc. ("**Deloitte**"), was appointed by the Court of Queen's Bench of Alberta (the "**Receivership Order**") as the receiver and manager (the "**Receiver**") of all current and future assets, undertakings, and properties of every nature and kind whatsoever and wherever situate (the "**Property**") of 1764239 Alberta Ltd. ("**176**") operating as the HomeStay Inn & Suites (the "**HomeStay Inn**") (the "**Debtor**") including, all proceeds thereof. A copy of the Receivership Order is attached hereto as **Appendix "A"**.
2. 176 is a private corporation incorporated in the province of Alberta on August 2, 2013 and is owned by Ostrander Family Holdings Ltd. (70%), Judy Hardwood (20%), and Doris Reimer (10%). HomeStay Inn is a 65-room full-service hotel located at 954 7 Street SW, Medicine Hat, AB.
3. As at the Date of Receivership, Deloitte retained 17 employees; 3 salaried employees and 14 part-time staff.
4. HomeStay Inn's primary secured lenders are Innovation Credit Union and Concentra Financial Services Association (collectively "**Innovation**") which were owed approximately \$7.3 million from 176 ("**Innovation Indebtedness**") at the Date of Receivership. Innovation holds security over all of 176's present and after acquired personal property (the "**Innovation Security**").
5. On October 4, 2017, Innovation sent a letter to 176 providing notice that it was in default of its obligations pursuant to various loan agreements, as amended, demanding repayment of the loans advanced thereunder, and issuing a notice of intention to enforce security pursuant to Section 244(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**Demand Letter**"). Subsequently, Innovation provided 176 various opportunities to rectify the outstanding deficiencies on its loans, which 176 was ultimately unable to do.
6. On March 11, 2020, Innovation and 176 entered into a forbearance agreement (the "**Forbearance Agreement**"). As 176 was in default of the Forbearance Agreement and the terms of the Forbearance Agreement had expired due to the effluxion of time, Innovation filed and served an application for appointment of a Receiver over 176 on July 14, 2020.
7. On November 2, 2020, the First Report of the Receiver (the "**First Report**") was filed in support of the Order pronounced on November 9, 2020, (the "**November 9 Order**") which approved, amongst other things, the sale process with respect to the HomeStay Inn. The November 9 Order is attached hereto as **Appendix "A"**.
8. The Receivership Order, together with related Court documents, the Notice to Creditors, the First Report and this second report (the "**Second Report**") have been posted on the Receiver's website (the "**Receiver's Website**") at <https://www.insolvencies.deloitte.ca/en-ca/Pages/Ostrander-Hotels>.
9. Unless otherwise provided, all other capitalized terms not defined in this Second Report are as defined in the First Report or the Receivership Order.

## Purpose

10. The purpose of this Second Report is to:
  - a) Provide the Court with an update of the Receiver's activities since the date of the First Report;
  - b) Provide the results of the Receiver's Sales Process (defined later in this Second Report); and
  - c) Respectfully recommend that this Honourable Court make orders:

- i. Approving the activities, fees, and disbursements of the Receiver as described in this Second Report, including, without limitation, the steps taken by the Receiver pursuant to the Receivership Order, and the fees of the Receiver's legal counsel;
- ii. Approving and directing the Receiver to carry out the terms of the asset purchase agreement with Pukhraj Harjaap Alberta Ltd. ("**PHAL**") dated May 6, 2021 (the "**PHAL APA**"), together with any amendments thereto, completing the sale of the purchased assets as described in the PHAL APA (the "**Sold Assets**") and vesting title to the Sold Assets free and clear of all liens, charges, security interests and other encumbrances in and to PHAL. A redacted copy of the PHAL APA is attached hereto as **Appendix "B"**. An unredacted copy of the PHAL APA is attached to the confidential supplement to this Second Report (the "**Confidential Supplement**") as **Appendix "C"** ;
- iii. Sealing the Confidential Supplement until the earlier of: (i) the closing of the sale of the Sold Assets; (ii) the discharge of the Receiver; or (iii) further Order of this Honourable Court;
- iv. Approving the repayment of Receiver's Borrowings with the net sales proceeds received from the Sold Assets;
- v. Approving the Receiver's Statement of Receipts and Disbursements for the period from July 22, 2020 to May 26, 2021 (the "**SRD**") attached hereto as **Appendix "C"**; and
- vi. Providing such further or other relief that the Court considers just and warranted in the circumstances.

#### Terms of reference

11. In preparing this Second Report, the Receiver has relied upon unaudited financial information prepared by the Debtors' management ("**Management**"), the Debtors' books and records, and discussions with Management. The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the *Chartered Professional Accountants Canada Handbook* and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the information.
12. The Receiver assumes no responsibility or liability for any loss or damage occasioned by any party as a result of the circulation, publication, reproduction, or use of the Second Report. Any use, which any party makes of the Second Report, or any reliance or decision to be made based on the Second Report, is the sole responsibility of such party.
13. All dollar amounts in this Second Report are in Canadian dollars, unless otherwise indicated.

#### Receiver's Activities since the First Report

14. The Receiver has undertaken and performed the following activities since the First Report:
  - a) Corresponded with various creditors, employees and other interested parties with respect to the receivership proceedings;
  - b) Prepared and updated from time to time a 13-week operating receivership cash flow;
  - c) Corresponded with, and provided oversight of, the management team of the HomeStay Inn with respect to day-to-day operations;
  - d) Corresponded with the merchant service provider, Moneris, with respect to its ongoing withholding of 50% of collected revenues (the "**Reserve Funds**") in accordance with the existing Merchant Agreement between Moneris and 176. The Receiver understands that the Reserve Funds are not to exceed \$82,000 and that the entirety of the Reserve Funds will be provided by Moneris to the Receiver

upon the closing of the sale of the Sold Assets. The Receiver continues to work with Moneris to expedite the release of the Reserve Funds upon the closing of the sale of the Sold Assets.

- e) Corresponded with Alberta Health Services with respect to continued compliance with all COVID-19 regulations, policies and procedures at the HomeStay Inn;
- f) Administered the Wage Earner Protection Program and corresponded with former employees with respect to same;
- g) Responded to queries from Canada Revenue Agency (the "**CRA**") regarding 176's Goods and Services Tax ("**GST**") and payroll accounts, and reconciling CRA's deemed trust claim;
- h) Addressed post-receivership GST matters;
- i) Prepared Records of Employment and T4 tax forms for former employees;
- j) Continued with collection efforts in respect of outstanding accounts receivable ("**AR**");
- k) Conducted a marketing and sales process in respect of the Homestay Express, as described in more detail in this Second Report and the Confidential Supplement, including negotiating the PHAL APA;
- l) Prepared interim statutory reports and filed same with the Office of the Superintendent of Bankruptcy in accordance with subsection 246(2) of the *Bankruptcy and Insolvency Act*;
- m) Assigned 176 into bankruptcy pursuant to the provisions of section 49 of the *Bankruptcy and Insolvency Act* and as authorized by the November 9 Order effective May 27, 2021 to, among other things, investigate certain reviewable transactions involving 176;
- n) Corresponded with Osler, Hoskin & Harcourt LLP ("**Osler**"), the Receiver's independent legal counsel, on various legal matters relating to the receivership; and
- o) Prepared, reviewed and finalized this Second Report.

## Accounts Receivable

- 15. At the Date of Receivership, the Receiver obtained a copy of 176's accounts receivable sub ledger, which indicated that 176 was owed approximately \$40,700 by certain corporate customers who utilize the hotel facilities on a reoccurring basis.
- 16. As at the date of this Second Report, the Receiver has collected approximately \$25,850 (64%) of the outstanding accounts receivable.
- 17. The Receiver continues its collection efforts on the remaining AR.

## Marketing and sales process

- 18. Pursuant to and in accordance with the November 9 Order, the Receiver undertook a Sales Process of the HomeStay Inn, the details of which are discussed further at paragraphs 36 to 41 of the First Report (the "**Sales Process**").
- 19. Royal LePage Mission ("**Royal LePage**") was retained by the Receiver to list the HomeStay Inn for sale. The listing price was set at \$4.85 million with a view to pursuing an alternative user that would pay a price based on land and building value rather than on the value of an operating hotel. Royal LePage commenced its marketing program on November 17, 2020.
- 20. Royal LePage undertook an extensive sales and marketing process deploying various marketing tools including, but not limited to, an online listing of the Property on Royal LePage's commercial website and

MLS Commercial listing website, posting the listing on Royal LePage's in-house marketing database, and sending brochures to several potentially interested third parties. Royal LePage, also reached out to the City of Medicine Hat's Economic Officer, Medicine Hat Community Housing and the Director of Land Development and Real Estate to canvass interest in the property for alternative use purposes.

21. Throughout the Sales Process, Royal LePage provided the Receiver with regular reporting regarding its marketing activities, including the number of prospective purchasers which had expressed an interest in the HomeStay Inn.
22. Royal LePage has advised that in addition to the public marketing of the HomeStay Inn on the platforms listed above, approximately 20 potentially interested parties were contacted and 14 parties executed confidentially agreements (the "CA") with the Receiver and were provided with detailed financial information on the HomeStay Express, among other information. A total of six (6) parties toured the property.
23. The Receiver was provided with two (2) offers (the "Final Offers"), both of which were similar in total consideration. A comparative summary of the Final Offers submitted to the Receiver is detailed in the Confidential Supplement.
24. The Receiver is of the view that the offer made by PHAL, as further described in the Confidential Supplement, is the superior offer and should be approved by the Court for the following reasons:
  - a) Royal LePage undertook a strategic and broad canvassing of the market to obtain the highest sale price for the Property;
  - b) The purchase price is consistent with Royal LePage's reassessed value of the property based on current market conditions and on the assumption that the hotel is purchased and operated as a hotel in the normal course, all as further discussed in the Confidential Supplement;
  - c) The Receiver's borrowings to maintain operations to the date of this Second Report will be satisfied from the sales proceeds with the residual sales proceeds being of a quantum to satisfy the known potential priority claims (unpaid property taxes and unremitted employee source deductions) registered on title to the Property, as described in the First Report;
  - d) The Receiver's fees and those of its legal counsel will be satisfied from the sales proceeds rather than having to be paid by Innovation; and
  - e) The Receiver is advised that Innovation supports the PHAL APA.
25. Based on the exhaustive Sales Process undertaken by Royal LePage, the appraised value of the HomeStay Inn and the value of the offers received, the Receiver is of the view that the PHAL APA is commercially reasonable and will maximize the available recovery for the receivership estate. Additional reasons and support are included in the Confidential Supplement. Accordingly, the Receiver requests that this Honourable Court approve the PHAL APA for the reasons outlined herein and in the Confidential Supplement, and vest title to the property in and to PHAL.

## Fees and disbursements of the Receiver

26. The Receiver's professional fees are calculated based on hours spent at rates established by each professional based on their qualifications and experience.
27. The Receiver's fees and disbursements in relation to the administration of the Receivership up to and including May 21, 2021 total approximately \$206,900 (excluding GST). This total comprises three (3) interim invoices for Receiver's fees and disbursements from July 22, 2020 to May 21, 2021.
28. In the Receiver's opinion, the services rendered in respect of these fees and disbursements have been duly rendered in response to required and necessary duties of the Receiver hereunder and are reasonable in

the circumstances. A summary of the invoices is attached as **Appendix "D"**. Detailed time records supporting the invoices are available in the office of the Receiver.

## Fees and disbursements of legal counsel

29. The Receiver's legal counsel's cumulative fees and disbursements on this matter total approximately \$26,000 (excluding GST) to May 21, 2021. The accounts of the Receiver's legal counsel are calculated based on hours spent at rates established by each professional based on their qualifications and experience. The Receiver is of the opinion that legal counsel's fees are reasonable and appropriate in the circumstances. A summary of the invoices is attached as **Appendix "E"**. Detailed time records supporting the invoices are available in Osler's offices.

## Interim Statement of Receipts and Disbursements

30. The interim Statement of Receipts and Disbursements reflecting the administration of the receivership for the period July 22, 2020 to May 26, 2021, attached hereto as **Appendix "C"**, is summarized below:

**IN THE MATTER OF THE RECEIVERSHIP OF 1764239 ALBERTA LTD.  
INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD JULY 22, 2020 TO MAY 26, 2021  
\$CAD**

	Total
Receipts	1,076,794
Disbursements	(781,560)
<b>Estate balance as at May 26, 2021</b>	<u>295,234</u>

31. Pursuant to the Receivership Order, the Receiver may borrow up to \$250,000 in aggregate without further Court approval. As at the date of this Second Report, the Receiver's borrowings total \$250,000 to fund the receivership proceedings.
32. As described in paragraph 25(d) of this Second Report, the approval of the PHAL APA is expected to generate sufficient estate funds to satisfy repayment of the Receiver's borrowings and the known potential priority claims (unpaid property taxes and unremitted employee source deductions) registered on title of the Property. Accordingly, the Receiver requests that this Honourable Court approve the repayment of the Receiver's borrowings .
33. The Receiver will seek further direction from the Court with respect to the distributions of any remaining estate funds once the sale has been closed and the funds available for distribution are known.

## Conclusions and Recommendations

34. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court grant the relief detailed in Section 10 c) of the Second Report and such further and other relief, as this Honourable Court deems appropriate in the circumstances.

\* \* \*

All of which is respectfully submitted at Calgary, Alberta this 28<sup>th</sup> day of May 2021.

**DELOITTE RESTRUCTURING INC.,**

solely in its capacity as Court-appointed Receiver  
of 1764239 Alberta Ltd. (as defined herein)  
and not in its personal or corporate capacity

Per:



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Robert J. Taylor, FCPA, FCA, CIRP, LIT  
Senior Vice-President

# **APPENDIX "A"**

COURT FILE NUMBER 1801-08520  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY  
PLAINTIFF INNOVATION CREDIT UNION AND CONCENTRA BANK  
DEFENDANTS 1764239 ALBERTA LTD., OSTRANDER FAMILY HOLDINGS LTD.,  
AND BRIAN OSTRANDER

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COURT FILE NUMBER 1801-08521  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY  
PLAINTIFF INNOVATION CREDIT UNION AND CONCENTRA BANK  
DEFENDANT 1885731 ALBERTA LTD., OSTRANDER FAMILY HOLDINGS LTD.,  
PHILIP KRAHN, AND BRIAN OSTRANDER

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**ORDER**

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ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **OSLER, HOSKIN & HARCOURT LLP**  
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**DATE ON WHICH ORDER WAS PRONOUNCED:** November 9, 2020

**NAME OF JUSTICE WHO MADE THIS ORDER:** The Honourable Madam Justice Eidsvik

**LOCATION OF HEARING:** Calgary Courts Centre  
601 – 5<sup>th</sup> Street SW  
Calgary, AB

**UPON THE APPLICATION OF** Deloitte Restructuring Inc. (the “**Receiver**”), in its capacity as receiver and manager of all current and future assets, undertakings, and properties of

every nature and kind whatsoever and wherever situate of 1764239 Alberta Ltd. and 1885731 Alberta Ltd. (together, the “**Debtors**”) pursuant to the Receivership Orders granted by the Honourable Madam Justice Campbell on July 22, 2020 (the “**Receivership Orders**”); **AND UPON** reviewing the First Reports of the Receiver, each dated November 2, 2020 (together, the “**First Reports**”); **AND UPON** hearing from counsel for the Receiver and any other interested party; **AND UPON** reviewing the Affidavit of Service of Elena Pratt, sworn November 6, 2020; **IT HEREBY ORDERED AND DECLARED THAT:**

### **Service**

1. The time for service of this application is abridged and deemed good and sufficient and the application is properly returnable today.
2. Service by electronic mail or ordinary post of this application on those who are presently on the service list established in these proceedings constitutes good and sufficient service for all purposes.

### **Assignment into Bankruptcy**

3. The Receiver is hereby authorized, if the Receiver deems advisable, to assign the Debtors, or either one of them, into bankruptcy pursuant to the provisions of section 49 of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, as amended (the “**BIA**”).
4. The Receivership Orders are hereby amended as may be necessary to provide the Receiver with authority to assign the Debtors, or either one of them, into bankruptcy pursuant to the provisions of section 49 of the BIA.
5. The Receiver shall not be disqualified from acting as Trustee in Bankruptcy by reason only of its role as Receiver.

### **Engagement of Royal LePage**

6. The Receiver’s engagement of Royal LePage Mission to market the HomeStay Inn & Suites, located at 954 7 Street SW, Medicine Hat, AB, and the HomeStay Inn Express, located at 815 East Lake Blvd NE, Airdrie, AB, generally in the form of the listing

agreements attached to the First Reports, is hereby approved and the Receiver is authorized to execute same with such minor amendments as the Receiver deems appropriate.

**Approval of Activities and Accounts**

7. The actions of the Receiver and the fees of the Receiver and its legal counsel as reported in the First Reports are hereby approved.

  
\_\_\_\_\_  
J.C.Q.B.A.

# **APPENDIX "B"**

## ASSET PURCHASE AGREEMENT

THIS AGREEMENT is made as of May 6, 2021.

**BETWEEN:**

**DELOITTE RESTRUCTURING INC.,**  
solely in its capacity as Court appointed receiver and manager of  
1764239 Alberta Ltd. and not in its personal or corporate capacity  
(the “**Receiver**”)

- and -

**PUKHRAJ HARJAAP ALBERTA LTD.,**  
a corporation existing under the laws of the Province of Alberta  
(the “**Purchaser**”)

**RECITALS:**

- A. Pursuant to a receivership order of the Court of Queen’s Bench of Alberta dated July 24, 2020 (the “**Receivership Order**”), the Receiver was appointed receiver and manager of the assets, undertakings and properties of 1764239 Alberta Ltd. (the “**Debtor**”) including all proceeds thereof.
- B. The Receiver has the authority under the Receivership Order to sell, convey, transfer the Purchased Assets, subject to Court Approval.
- C. The Receiver has agreed to sell the Purchased Assets to the purchaser and the Purchaser has agreed to buy the Purchased Assets from the Receiver on the terms and subject to the conditions of this Agreement.

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the mutual premises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

### 1. **Definitions**

In this Agreement, the following terms have the meanings respectively ascribed to them.

“**Agreement**”, “**this Agreement**”, “**hereto**”, “**hereof**”, “**herein**”, “**hereby**”, “**hereunder**” and similar expressions refer to this Asset Purchase Agreement, as amended from time to time, and “**Article**”, “**Section**”, “**Subsection**”, “**Paragraph**”, “**Subparagraph**” and “**Schedule**” followed by a number or letter refer to the specific article, section, subsection, paragraph, subparagraph or schedule, as the case may be, of this Agreement.

“**Approval**” in relation to the Court, means the making of an appropriate Order of the Court in respect of the particular action or proposed action of the Receiver submitted for approval, on terms satisfactory to the Receiver, in its sole discretion.

“**Buildings**” means, individually or collectively, as the context requires, all of the buildings, structure and fixed improvements located on, in or under the Lands and improvements and fixtures contained in or on such buildings and structures used in the operation of same, and “**Building**” means any one of the Buildings.

“**Business Day**” means a day other than Saturday, Sunday or a statutory holiday or any other day upon which the Receiver is not open for the transaction of business throughout normal business hours at its office in Calgary, Alberta.

“**Closing**” or “**Closing Date**” has the meaning ascribed in Section 13.

“**Condition Date**” has the meaning ascribed thereto in Section 10.

“**Contracts**” means all existing contracts and agreements with third parties with respect to (without limiting the generality of the foregoing) the ownership, development, maintenance, repair, operation, cleaning, security, fire protection, insurance, servicing and any other aspect of the Real Property entered into by the Debtor or any previous owner of the Real Property and set out in Schedule B, but excluding any property management contracts and employment and collective agreements.

“**Court**” means the Court of Queen’s Bench of Alberta.

“**Debtor**” has the meaning ascribed thereto in the Recitals.

“**Deposit**” means collectively, the Initial Deposit and, if paid, the Second Deposit.

“**Environmental Laws**” means all applicable federal, provincial, municipal and local laws, statutes, ordinances, by-laws and regulations and all orders, directives and decisions rendered by, and policies, standards, guidelines and similar guidance of, any Governmental Authority, ministry, department or administrative or regulatory agency or court having jurisdiction over the Purchased Assets (which, for further certainty, in each case shall be deemed to have the force of law), including any obligations or requirements arising at law, relating to the protection of the environment, human and other animal health and safety or the release, manufacture, processing, distribution, use, treatment, storage, presence, disposal, packaging, labelling, recycling, transport, handling, containment, clean-up or other remediation or corrective action of or in respect of any Hazardous Substances.

“**GST**” has the meaning ascribed thereto in Section 12.

“**Governmental Authority**” means any government, parliament, legislature, or any governmental, quasi- governmental or regulatory authority, agency, commission, department or board, or any political subdivision thereof, or any court or any other law, regulation or rule-making entity, having jurisdiction in the relevant circumstances, or any person acting under the authority of any of the foregoing (including any court or any arbitrator with the authority to bind the Parties at law) or any other authority charged with the administration or enforcement of legal requirements.

“**Hazardous Substances**” means any contaminant, pollutant, dangerous substance, potentially dangerous substances, noxious substance, toxic substance, hazardous waste, flammable material, explosive material, radioactive material, urea-formaldehyde foam insulation, asbestos, PCBs

radiation and any other substance, material, effect, or thing declared or defined to be hazardous, toxic, a contaminant, or pollutant, in or pursuant to any Environmental Laws.

“**Initial Deposit**” has the meaning ascribed thereto in Section 3(a).

“**Lands**” means the lands legally described in Schedule A

“**Parties**” means collectively, the Receiver and the Purchaser; and Party means either one.

“**Permitted Encumbrances**” those instruments registered against title to the Lands as further set out in Part 1 Schedule “D” to this Agreement.

“**Personal Property**” means all personal property of the Debtor located on the Real Property, whether or not described in Schedule C.

“**Purchase Price**” has the meaning ascribed thereto in Section 3

“**Purchased Assets**” means collectively, the Real Property, the Personal Property and, to the extent assignable the Contracts.

“**Purchaser’s Conditions**” has the meaning ascribed thereto in Section 10.

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

“**Receivership Order**” has the meaning ascribed thereto in the Recitals.

“**Second Deposit**” has the meaning ascribed thereto in Section 3(b).

“**Vesting Order**” means an Order to be made by the Court upon terms acceptable to the Parties, acting reasonably, which, *inter alia*, provided that, upon Closing, all of the Debtor’s right, title and interest in the Purchased Assets shall irrevocably vest in the Purchaser, free and clear of all registered liens, claims and encumbrances, excluding the Permitted Encumbrances.

## 2. **Agreement of Purchase and Sale**

On the Closing Date and subject to the terms and conditions of this Agreement the Receiver hereby agrees to sell, assign and transfer to the Purchaser, and the Purchaser agrees to purchase from the Receiver, all of the Debtor’s and the Receiver’s right, title and interest, if any, in and to the Purchased Assets, and such forgoing purchase shall be free and clear of all encumbrances other than Permitted Encumbrances as provided for in the Vesting Order.

## 3. **Purchase Price**

The Purchaser shall pay to the Receiver, in consideration for the sale, assignment, conveyance and transfer of the Purchased Assets to the Purchaser at Closing, the sum of [REDACTED]

\_\_\_\_\_ plus all applicable taxes (the “**Purchase Price**”). The Purchaser shall pay the Purchase Price as follows:

- (a) an initial deposit of \_\_\_\_\_ (the “**Initial Deposit**”) payable to the Receiver’s solicitor in trust, by wire transfer, upon execution and delivery of this Agreement by the Purchaser;
- (b) a second deposit of \_\_\_\_\_ (the “**Second Deposit**”) payable to the Receiver’s solicitor in trust, by wire transfer, within three (3) Business Days following Court approval of this Agreement; and
- (c) the balance of the Purchase Price, subject to adjustments provided for herein, shall be paid by wire transfer on the Closing Date.

#### 4. **Acceptance of Agreement**

The Purchaser agrees that no agreement for the purchase and sale of the Purchased Assets shall result from this Agreement unless and until this Agreement has been executed by the Receiver and approved by the Court. If the Court approval of this Agreement is not obtained then this Agreement shall terminate and the Receiver and the Purchaser shall have no further liabilities or obligations to each other with respect to this Agreement and the Initial Deposit shall be returned to the Purchaser.

#### 5. **Capacity of Receiver**

The Receiver, in executing this Agreement, is entering into this Agreement solely in its capacity as the Court appointed receiver and manager of the assets, undertakings and properties of the Debtor, and not in its personal or any other capacity. Any claim against the Receiver shall be limited to and only enforceable against the property and assets then held by or available to it in its said capacity as Receiver and shall not apply to its personal property and assets held by it in any other capacity. The Receiver shall have no personal or corporate liability of any kind, whether in contract or in tort or otherwise. The term Receiver as used in this Agreement shall have no inference or reference to the present registered owner of the Purchased Assets.

#### 6. **Obligation to Complete**

The obligation of the Receiver to complete this Agreement is subject to the satisfaction of the following terms and conditions on the Closing Date, which conditions are for the sole benefit of the Receiver and which may be waived by the Receiver in its sole discretion:

- (a) the representations and warranties of the Purchaser herein are true and accurate as of the Closing Date;
- (b) no action or proceeding at law or in equity shall be pending or threatened by any person, firm, government, Governmental Authority, regulatory body or agency to enjoin, restrict or prohibit the purchase and sale of the Purchased Assets;
- (c) the Purchased Assets shall not have been removed from the control of the Receiver by any means or process;

- (d) no third party shall take any action to redeem the Purchased Assets;
- (e) the Court shall have granted the Vesting Order and no stay or appeal of the Vesting Order or application to vary or set aside the order shall be in effect, filed or outstanding as of the Closing Date;
- (f) the Purchaser shall have fulfilled or complied with all covenants contained in this Agreement;
- (g) all amounts to be paid by the Purchaser to the Receiver on or before the Closing Date pursuant hereto shall have been paid to the Receiver by the Purchaser in the form stipulated in this Agreement; and
- (h) the Receiver shall have received from the Purchaser the closing deliveries contemplated in Section 19.

## 7. **Purchaser's Acknowledgements**

The Purchaser hereby acknowledges and agrees with and to be subject to the following:

- (a) it is responsible for conducting its own searches and investigations of the current and past uses of the Purchased Assets;
- (b) the Receiver makes no representation or warranty of any kind that the present use or future intended use by the Purchaser of the Purchased Assets is or will be lawful or permitted;
- (c) it is purchasing the Purchased Assets on an "as is, where is" and without recourse basis including without limitation defaults under the Contracts, outstanding work orders, deficiency notices, compliance, requests, development fees, imposts, lot levies, sewer charges, zoning and building code violations and any outstanding requirements which have been or may be issued by any Governmental Authority having jurisdiction over the Purchased Assets;
- (d) it relies entirely on its own judgment, inspection and investigation of the Purchased Assets and any documentation relating to the Purchased Assets obtained from the Receiver has been prepared or collected solely for the convenience of prospective purchasers and is not warranted to be complete or accurate and is not part of this Agreement;
- (e) it will provide the Receiver with all requisite information and materials, including proof respecting source of funds, at any time or times within forty-eight (48) hours of request by the Receiver so that the Receiver may determine the credit worthiness of the Purchaser;
- (f) the Receiver shall have no liability or obligation with respect to the value, state or condition of the Purchased Assets, whether or not the matter is within the knowledge or imputed knowledge of the Receiver, its officers, employees, directors, agents, representations and contractors;

- (g) the Receiver has made no representations, warranties or conditions with respect to or in any way related to the Real Property, including without limitation, the following: (i) the title, quality, quantity, marketability, zoning, fitness for any purpose, state, condition, encumbrances, description, present or future use, value, location or any other matter or thing whatsoever related to the Real Property, either stated or implied; and (ii) the environmental state of the Property, the existence, nature, kind, state or identity of any Hazardous Substances on, under, or about the Real Property, the existence, state, nature, kind, identity, extent and effect of any administrative order, control order, stop order, compliance order or any other orders, proceedings or actions under the *Environmental Protection and Enhancement Act* (Alberta), or any other statute, regulation, rule or provision of law now in force, the existence, state, nature, kind, identity, extent and effect of any liability to fulfill any obligation to compensate any third party for any costs incurred in connection with or damages suffered as a result of any discharge of any Hazardous Substances whether on, under or about the Real Property or elsewhere; and
- (h) Without limiting the generality of foregoing, it acknowledges and accepts that the description of the Purchased Assets and any portion thereof contained in the Schedules hereto or otherwise provided by the Receiver is for the purpose of identification only, and that no representation, warranty or condition has or will be given by the Receiver or any other Party concerning completeness or the accuracy of such descriptions or with respect to any data room set up by the Receiver.

#### 8. Title to the Purchased Assets

Title to the Real Property shall be free from all restrictions, charges, liens, claims and encumbrances, save and except for:

- (a) registered agreements with any municipal, provincial or federal governments or authorities and any public utilities or private suppliers of services, including (without limitation) subdivision agreements, development agreements, engineering, grading or landscaping agreements and similar agreements provided they are in good standing;
- (b) registered easements for the supply of utilities or telephone services to the Real Property and for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services;
- (c) registered easements or rights-of-way for the passage, ingress and egress of persons and vehicles over parts of the Real Property;
- (d) reservations and exceptions contained in any original grant from the Crown or in any land registry legislation; and
- (e) those registrations set out in Part 1 of Schedule D.

Notwithstanding the foregoing, the Vesting Order shall provide for the deletion of: (i) the instruments or registrations set out in Part 2 of Schedule D; and (ii) any filings under the Personal Property Security Act (Alberta) affecting the Purchased Assets.

The Receiver shall not be required to produce any other document or report to the Purchaser, unless it is expressly provided for by this Agreement. The description of the Purchased Assets is believed by the Receiver to be correct but, if any statement, error or omission shall be found in the particulars thereof, the same shall not cancel the purchase and sale of the Purchased Assets or entitle the Purchaser to be relieved of any obligation hereunder, nor shall any compensation be allowed to the Purchaser in respect thereof.

## 9. Authorizations

The Purchaser shall assume, at its cost, complete responsibility for compliance with all municipal, provincial and federal laws insofar as the same apply to the Purchased Assets and the use thereof by the Purchaser. It shall be the Purchaser's sole responsibility to obtain, and pay the cost of obtaining any consents, permits, licenses or other authorizations necessary or desirable for the transfer to the Purchaser of the Receiver's right, title and interest, if any, in the Purchased Assets provided, however, any costs of the Receiver incurred in connection with obtaining the Vesting Order shall not be borne by the Purchaser.

## 10. Condition Period

The obligations of the Purchaser to complete this Agreement (and the purchase of the Purchased Assets) shall be subject to the Purchaser on or before the 12<sup>th</sup> day of May, 2021 (the "**Condition Date**") shall have conducted and be satisfied, in its sole discretion, with its review and the results of any investigations (including a Phase 2 Environmental Site Assessment), studies, reports, reviews, searches, audits, inspections, tests, inquiries, analyses of or with respect to the Purchased Assets including, without limitation, with respect to title, land use, zoning, development, building or other permits, agreements or laws affecting the Purchased Assets, and the feasibility and suitability of the Purchased Assets for the Purchaser's intended use and shall have obtained financing on terms and conditions satisfactory to the Purchaser in its sole discretion (collectively, the "**Purchaser's Conditions**").

The condition set forth herein is inserted for the sole benefit of the Purchaser and may be satisfied or waived, by notice in writing to the Receiver, in the sole and unfettered discretion of the Purchaser at any time prior to 5:00 p.m. (Calgary time) on the Condition Date. If by such time on such date the Purchaser has not given written notice to the Receiver that the condition in this Section has been satisfied or waived, such condition shall be deemed not to have been satisfied or waived. If the condition set forth in this Section is not waived or satisfied as provided in this Section, then the Deposit shall be returned to the Purchaser, the Agreement shall terminate and be of no further force and effect and neither party shall have any claims against the other party hereto arising out of this Agreement.

If the Purchaser satisfies or waives the Purchaser's Conditions as and when contemplated herein, the Purchaser shall be conclusively deemed to have accepted the title to the Purchased Assets to be vested in the Purchaser on Closing in accordance with this Agreement, and to have accepted the Purchased Assets subject to all applicable laws, by-laws, regulations, easements and covenants

affecting its use and the Purchaser shall assume responsibility from and after the Closing Date for compliance therewith.

If the Purchaser satisfies or waives the Purchaser's Conditions as and when contemplated herein, the Receiver will apply to the Court for the Vesting Order.

If the Purchaser satisfies or waives the Purchaser's Conditions as and when contemplated herein and the Court has granted the Vesting Order and no stay or appeal of the Vesting Order or application to vary or set aside the Vesting Order shall be in effect, filed or outstanding, and the Purchaser defaults in its obligation to complete the purchase of the Purchased Assets in accordance with this Agreement or if the Purchaser repudiates this Agreement and the transaction contemplated hereby is not completed by reason of the Purchaser's default, then the Receiver shall be entitled to retain the Deposit for its own use absolutely on account of liquidated damages, the Purchaser hereby waives any right or entitlement it may have to make any claim for return of all or any portion thereof, the Receiver shall, in addition to retention of the Deposit, have all other remedies available to it at law, this Agreement shall be of no further force or effect, and the Purchaser shall immediately remove any encumbrance registered against title to the Lands by it or through its interest hereunder.

## **11. Inspection**

During the period from the date of this Agreement to the Condition Date, the Purchaser and its agents, consultants and employees shall have reasonable access to the Lands during normal business hours from time to time, and, upon at least 48 hours prior notice to the Receiver, at the Purchaser's sole risk and expense, for the purpose of making any of the Purchaser's inspections, including physical and environmental inspections and tests (including a Phase 2 Environmental Site Assessment), soil tests and environmental audits, provided however that all soil tests, environmental tests, tests requiring drilling, or other invasive tests shall be done only with Receiver's prior written consent, not to be unreasonably withheld or delayed and shall be done prior to the Condition Date. Such access, tests and inspections shall be done in a manner to minimize disruption, to the extent reasonably possible, to the tenants and visitors of the Lands and Buildings and in compliance with the Lease. The Purchaser may not interview tenants unless the consent of the Receiver is granted. The Receiver shall be entitled to attend all inspections and interviews. The Purchaser shall direct its environmental consultant that any written report regarding the results of any assessment or inspection of the Lands shall be addressed to both the Purchaser and the Receiver and a copy of such report shall be promptly delivered to the Receiver.

The Purchaser agrees forthwith to repair and restore in a good and workmanlike manner any damage to the Lands and Building arising from such access, tests or inspection at the Purchaser's expense and the Purchaser agrees to fully indemnify the Receiver from all costs of repairing any damage caused by or attributable to such inspections, tests or audits and from all third party claims for damages to property or persons caused by such inspections, tests or audits. If the Purchaser does not forthwith perform such repairs, the Receiver shall have the right to perform, or cause to be performed, such repairs and the Purchaser shall reimburse the Receiver for all reasonable costs of such repairs, such amounts to be payable to the Receiver on demand and such costs may also be deducted by the Receiver from the Deposit. The obligations and indemnities of the Purchaser

set out in this Section shall survive termination of this Agreement (regardless of the cause of such termination) or closing.

## 12. Risk of Loss

The Purchased Assets shall be and remain until Closing at the risk of the Receiver. The Purchased Assets shall thereafter be at the risk of the Purchaser. Until Closing, the Receiver shall hold all insurance policies, if any, and the proceeds thereof in trust for the Parties as their interest may appear and in the event of damage to the Purchased Assets in excess of \$500,000 before Closing which damage gives rise to any insurance proceeds, the Purchaser may either terminate this Agreement and have the Deposit returned without interest or deduction or else take the proceeds of insurance and complete the transaction contemplated herein.

## 13. Goods and Services Tax

The Purchaser hereby represents and warrants to the Receiver that it is or will become registered for the purposes of Part IX of the *Excise Tax Act* (Canada) in accordance with the requirements of Subdivision (d) of Division V thereof and it will continue to be so registered as of the Closing Date. The Purchaser covenants to deliver to the Receiver drafts not less than five (5) days before the Closing Date and originals upon Closing of: (a) a true copy of the certificate evidencing its registration for purposes of the goods and services tax (“GST”), including the registration number assigned to it; and (b) a declaration and indemnity of the Purchaser confirming the accuracy, as at Closing, of the representations and warranties set out herein and agreeing to indemnify the Receiver for any amounts for which the Receiver may become liable as a result of any failure by the Purchaser to pay the GST payable in respect of the sale of the Purchased Assets under Part IX of the *Excise Tax Act* Canada) and that the Purchaser is buying for its own account and not as trustee or agent for any other party. Provided that the Purchaser delivers a true copy of the certificate and the declaration and indemnity as set out above, in a form satisfactory to the Receiver, the Purchaser shall not be required to pay to the Receiver, nor shall the Receiver be required to collect from the Purchaser, the GST in respect of the Purchased Assets. In the event that the Purchaser shall fail to deliver the true copy of the certificate and the declaration and indemnity as set out above, then the Purchaser shall pay to the Receiver, in addition to the Purchase Price, in pursuance of the Purchaser’s obligation to pay and the Receiver’s obligation to collect GST under the provisions of the *Excise Tax Act* (Canada), an amount equal to five (5%) percent of the Purchase Price, or such other rate due and owing at the time of Closing.

## 14. Closing

- (a) Closing shall take place at the offices of the solicitors for the Receiver in Calgary, Alberta at 12:00 p.m., noon (Calgary time) on the date which is thirty (30) days following the issuance of the Vesting Order, or such other date as the Parties or their respective solicitors may actually agree upon in writing (the “**Closing Date**” or “**Closing**”). Provided that the Receiver by written notice to the Purchaser or its solicitors may postpone the Closing Date from time to time. The Parties agree that Closing shall take place in accordance with such usual and customary trust conditions agreed to between the solicitors for the Receiver and the solicitors for the Purchaser as are applicable to similar transactions in Calgary, Alberta.

- (b) The Receiver shall be responsible for registration fees payable in connection with the registration of discharges of any mortgages, liens, charges, encumbrances, restrictions, leases or other claims or interests which the Receiver is required to discharge hereunder.
- (c) The Purchaser shall be responsible for all registration fees payable in connection with the transfer of the Purchased Assets to the Purchaser.

#### 15. **Adjustments**

Subject to the clarifications and the qualifications set forth in this Section, adjustments shall be made as of the Closing Date for all income from the Purchased Assets including, without limitation, the current month's income and operating expenses recovered in the month in which the Closing Date occurs and all other amounts owing to the Receiver, and all expenses in respect of the Purchased Assets (including, without limitation and if applicable, property taxes, unamortized local improvement levies, deposit payments under service contracts, utilities, licenses necessary for the operation of the business associated with the Purchased Assets) and all other items normally adjusted between a seller and purchaser in respect of the sale of property similar to the Purchased Assets in the City of Calgary.

The Purchaser shall receive all of the income (if any) and pay all expenses for the entire Closing Date.

#### 16. **Receiver's Closing Deliveries**

The Receiver shall execute and deliver or cause to be executed and delivered to the Purchaser on the Closing Date, the following:

- (a) a copy of the Vesting Order and if applicable, the Receiver's certificate contemplated in the Vesting Order executed by the Receiver;
- (b) a bill of sale conveying the Personal Property to the Purchaser, if any;
- (c) a notice or notices to be given to other parties under the Contracts of their assignment to the Purchaser, together with directions relating to the payments hereunder, if any;
- (d) assignments of those Contracts that are capable of being assigned by the Receiver;
- (e) a statement of adjustments;
- (f) a direction for the payment of the balance of the Purchase Price due on Closing;
- (g) a certificate of the Receiver to the effect that it is not at the Closing Date a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act* (Canada); and
- (h) keys that may be in the possession of the Receiver.

**17. Confidentiality**

The Purchaser agrees that all information and documents supplied by the Receiver or anyone on its behalf to the Purchaser or anyone on the Purchaser's behalf (including but not limited to information in the schedules hereto) shall, unless and until Closing occurs, be received and kept by the Purchaser and anyone acting on the Purchaser's behalf on a confidential basis and shall not without the Receiver's prior written consent be disclosed to any third party. If for any reason Closing does not occur, all such documents shall forthwith be returned intact to the Receiver and no copies or details thereof shall be retained by the Purchaser or anyone acting on its behalf. The Purchaser further agrees that unless and until the terms of this Agreement become public knowledge in connection with an application to the Court for Approval of this Agreement, the Purchaser shall keep such terms confidential and shall not disclose the same to anyone except the Purchaser's prospective syndicate members, solicitors, agents or lenders acting in connection herewith and then only on the basis that such persons also keep such terms confidential as aforesaid.

**18. Release**

The Purchaser agrees to release and discharge the Receiver together with its officers, employees, agents and representatives from every claim of any kind that the Purchaser may make, suffer, sustain or incur in regard to any Hazardous Substance relating to the Real Property. The Purchaser further agrees that the Purchaser will not, directly or indirectly, attempt to compel the Receiver to clean up or remove or pay for the cleanup or removal of any Hazardous Substance, remediate any condition or matter in, on, under or in the vicinity of the Real Property or seek an abatement in the Purchase Price or damages in connection with any Hazardous Substance.

**19. Non-Registration**

The Purchaser hereby covenants and agrees not to register this Agreement, a caveat with respect to this Agreement or notice of this Agreement or a caution, certificate of pending litigation, or any other document providing evidence of this Agreement against title to the Purchased Assets. Should the Purchaser be in default of its obligations under this Section, the Receiver may (as agent and attorney of the Purchaser) cause the removal of such notice of this Agreement, caveat, caution, certificate of pending litigation or other document providing evidence of this Agreement or any assignment of this Agreement from the title to the Purchased Assets and the Purchaser irrevocably nominates, constitutes and appoints the Receiver as its agent and attorney in fact and in law to cause the removal of such notice of this Agreement, any caution, certificate of pending litigation or any other document or instrument whatsoever from title to the Purchased Assets.

**20. Purchaser's Closing Deliveries**

The Purchaser shall execute and deliver to the Receiver on the Closing Date the following:

- (a) a wire transfer for the balance of the Purchase Price and any other monies required to be paid by the Purchaser pursuant to this Agreement, or the adjustments, including all applicable federal and provincial taxes, duties and registration fees unless the applicable exemption certificates in a form acceptable to the Receiver

are presented to the Receiver on or before the Closing Date to exempt the Purchaser therefrom;

- (b) a true copy of its GST registration and GST certificate and indemnity as required pursuant to this Agreement;
- (c) A bring-down certificate executed by the Purchaser, in a form satisfactory to the Receiver, acting reasonably, certifying that all of the representations and warranties of the Purchaser hereunder remain true and correct in all material respects as of the Closing Date; and
- (d) any other documents relative to the completion of this Agreement as may reasonably be required by the Receiver or its solicitors.

## 21. Purchaser's Representations and Warranties

The Purchaser hereby represents and warrants to and in favour of the Receiver that as of the Closing Date:

- (a) the Purchaser is a Corporation duly existing and governed by the laws of its incorporating jurisdiction and has the necessary corporate authority, power and capacity, to own the Purchased Assets and to enter into this Agreement and to carry out the transactions contemplated by this Agreement in the manner contemplated by this Agreement;
- (b) the obligations of the Purchaser hereunder and the documents and transactions contemplated herein shall be duly and validly authorized by all requisite corporate proceedings on or before the Closing Date;
- (c) neither the execution of this Agreement nor its performance by the Purchaser will result in a breach of any term or provision or constitute a default under any of the constating documents or by-laws of the Purchaser or any other agreement to which the Purchaser is a party;
- (d) the Purchaser:
  - (i) is not an insolvent person within the meaning of the *Bankruptcy and Insolvency Act* (Canada) or the *Winding-up and Restructuring Act* (Canada);
  - (ii) is not a non-Canadian within the meaning of the *Investment Canada Act* (Canada); and
  - (iii) is or will be on the Closing Date a GST registrant under the *Excise Tax Act* (Canada).

## 22. Lease

The Purchaser acknowledges that it is purchasing the Purchased Assets subject to the lease arrangement entered into by the Debtor as described in Schedule B with respect to the Purchased

Assets (the "**Lease**"), which shall be considered a Permitted Encumbrance in Schedule D, and which shall constitute a Contract to be assigned on Closing, and in accordance with such acknowledgement, the Purchaser agrees that it is purchasing the Lands subject to the rights of any tenant as set out in such Lease.

**23. Purchaser's Title Insurance**

The Purchaser shall obtain title insurance coverage with a reputable title insurance provider in order to allow for the unconditional release of the Purchase Price on the Closing Date notwithstanding that the Vesting Order may not be registered against title to the Lands as at such date. The cost of obtaining any title insurance in connection with the purchase of the Purchased Assets shall be for the sole cost of the Purchaser.

**24. Notices**

Any notice, direction or other communication given regarding the matters contemplated by this Agreement must be in writing, sent by personal delivery, courier or electronic mail and addressed:

- (a) in the case of the Receiver:

DELOITTE RESTRUCTURING INC.  
700, 850 2<sup>nd</sup> Street S.W.  
Calgary, AB T2P 0R8  
Attention: Naomi McGregor  
Email: naomcgregor@deloitte.ca

- (b) in the case of the Purchaser:

PUKHRAJ HARJAAP ALBERTA LTD.  
c/o Niblock & Company LLP  
420 Macleod Trail S.E.  
Medicine Hat, Alberta T1A 2M9  
Attention: Bryce R. Farrell  
Email: bfarrell@niblock.ca

A notice is deemed to be given and received if: (i) sent by personal delivery or courier, on the date of delivery if it is a Business Day and the delivery was made prior to 4:00 p.m. (local time in place of receipt) and otherwise on the next Business Day; or (ii) email, on the date of transmission if it is a Business Day and the transmission was made prior to 4:00 p.m. (local time in place of receipt), and otherwise on the next Business Day. A Party may change its address for service from time to time by providing a notice in accordance with the foregoing. Any subsequent notice must be sent to the Party at its changed address. Any element of a Party's address that is not specifically changed in a notice will be assumed not to be changed.

**25. Entire Agreement**

The Agreement shall constitute the entire agreement between the Parties to it pertaining to the subject matter thereof and shall supersede all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the Parties and there shall be no agreements or understandings between the Parties in connection with the subject matter

thereof except as specifically set forth herein. No Party has relied on any express or implied representation, written or oral, of any individual or entity as an inducement to enter into this Agreement.

**26. Amendment**

No supplement, modification, waiver or termination of this Agreement shall be binding, unless executed in writing by the Parties to be bound thereby, provided that the time provided for doing any matter or thing contemplated herein may be abridged or extended by written agreement, in letter form or otherwise.

**27. Time of Essence**

Time shall be of the essence in this Agreement in all respects and any waiver of any time provision shall not be effective unless in writing and signed by both Parties.

**28. Binding Agreement**

This Agreement, when duly executed by the Parties, shall constitute a binding agreement of purchase and sale subject to its terms. It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Agreement or the Purchased Assets supported hereby other than as expressed herein in writing.

**29. Successors and Assigns**

All of the covenants and agreements contained in this Agreement shall be binding upon the Parties and their respective successors and permitted assigns and shall enure to the benefit of and be enforceable by the Parties and their respective successors and permitted assigns pursuant to the terms and conditions of this Agreement. The Purchaser may assign this Agreement upon the provision of prior notice in writing to the Receiver, which shall be provided not less than five (5) Business Days prior to the granting of the Vesting Order, and provided however, the Purchaser shall not be released from any liability to observe and perform all of the terms and conditions contained herein until Closing.

**30. Governing Law**

This Agreement shall be construed and enforced in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein and shall be treated in all respects as an Alberta contract and the Parties attorn to the jurisdiction of the courts of Alberta, located where available in the Judicial District of Calgary.

**31. Gender, Interpretive Matters**

This Agreement shall be read with all changes of gender or number required by the context. The titles to provisions do not form part of this Agreement and are inserted for reference purposes only. Preparation and submission of the form of this Agreement or any other material by the Receiver shall not constitute an offer to sell.

**32. Severability**

Any provision of this Agreement, which is determined to be void, prohibited or unenforceable shall be severable to the extent of such avoidance, prohibition or unenforceability without invalidating or otherwise limiting or impairing the other provisions of this Agreement.

**33. Non-Merger**

The provisions of this Agreement (including, without limitation, the representations and warranties of the Purchaser), shall survive Closing and shall not merge in the Vesting Order or in any other documents delivered hereunder.

**34. Further Assurances**

Each of the Parties shall from time to time hereafter and upon any reasonable request and at the cost of the other Party, make or cause to be made all such further acts, deeds, assurances and things as may be required or necessary to more effectually implement and carry out the true intent and meaning of this Agreement.

**35. Counterparts and Electronic Delivery**

This Agreement may be executed in any number of counterparts and delivered via facsimile or email in PDF, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, provided that a Party delivering this Agreement via facsimile or email in PDF shall deliver an originally executed copy of this Agreement forthwith thereafter to the other Party.

**36. Solicitors and Agents**

Any notice, approval, waiver, agreement, instrument, document or communication permitted, required or contemplated by this Agreement may be given or delivered and accepted or received by the Purchaser's solicitors on behalf of the Purchaser and by the Receiver's solicitors on behalf of the Receiver and any tender of closing documents and the balance of the Purchase Price and/or any other payment hereunder may be made upon the Purchaser's solicitors and the Receiver's solicitors, as the case may be.

**37. Commission**

The Purchaser acknowledges that they are not represented by any agent or broker that will be seeking a commission payable by the Receiver on the Purchase Price or otherwise in connection with this Agreement, and the Purchaser agrees to indemnify the Receiver against any claim for compensation or commission by any third party or agent retained by the Purchaser in connection with, or in contemplation of, this Agreement.

*[Remainder of page intentionally left blank.]*

**IN WITNESS WHEREOF** the Purchaser has executed this Agreement as of the date first above written.

**PUKHRAJ HARJAAP ALBERTA LTD.**

Per:

Name:

Title:

Per:

Name:

Title:



Subject to the approval of the Court, the Receiver has executed this Agreement 06/05/2021.

**DELOITTE RESTRUCTURING INC.,**  
solely in its capacity as Court appointed  
receiver and manager of 1764239 Alberta Ltd.  
and not in its personal or corporate capacity

Per:

Name: Robert J. Taylor  
Authorized Signing Officer

**SCHEDULE "A"**  
**LEGAL DESCRIPTION OF THE LANDS**

PLAN 832LK  
BLOCK 1  
EXCEPTING THEREOUT ALL MINES AND MINERALS

**SCHEDULE “B”  
CONTRACTS**

Commercial Lease Agreement (month to month) – Arts Bistro & Wine Bar

**SCHEDULE "C"**  
**PERSONAL PROPERTY**

All personal property located at the Real Property owned by the Debtor.

## SCHEDULE "D"

### Part 1:

Permitted Encumbrances registered against title to the Lands

<b>Registration Number</b>	<b>Instrument</b>
031 099 497	Easement

### Part 2:

Non-permitted encumbrances registered against title to the Lands

<b>Registration Number</b>	<b>Instrument</b>
131 238 189	Mortgage
141 016 072	Mortgage
141 016 073	Mortgage
141 026 166	Postponement
141 213 233	Caveat re : Amending Agreement
141 255 201	Postponement
151 055 152	Mortgage
151 055 153	Mortgage
161 053 211	Postponement
161 068 552	Caveat re: Agreement Charging Land
171 083 973	Mortgage
181 063 129	Writ
181 068 701	Writ
181 073 919	Tax Notification
191 014 560	Writ
191 015 584	Caveat re: Amending Agreement
201 052 904	Writ

# **APPENDIX "C"**

**IN THE MATTER OF THE RECEIVERSHIP OF 1764239 Alberta Ltd.  
INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD JULY 22, 2020 TO MAY 26, 2021  
\$CAD**

	<b>Total</b>
<b>Receipts</b>	
Operating Income	430,273
Deposit on Sale of Assets	300,000
Receiver's Certificate	225,000
Accounts receivable	69,677
GST collected	21,564
Cash in bank	13,034
Hotel Sales Tax	<u>17,246</u>
<b>Total receipts</b>	<u>1,076,794</u>
<b>Disbursements</b>	
Employee wages and source deductions	351,691
Utilities on operations	124,318
Moneris withholdings	79,474
Operating expenses	57,131
Insurance	35,293
Misc	33,672
Legal fees/disbursements	18,441
Repairs and maintenance	18,246
Tourism Levy Remittance	16,987
HST/GST Remittance	14,003
Bank charges	13,056
Lease Payments	10,581
GST	8,597
Filing fees paid to Official Receiver	<u>70</u>
<b>Total disbursements</b>	<u>781,560</u>
<b>Estate balance as at May 26, 2021</b>	<u><u>295,234</u></u>

# **APPENDIX "D"**

**IN THE MATTER OF THE RECEIVERSHIP OF 1764239 ALBERTA LTD.  
SUMMARY OF RECEIVER'S FEES  
AS AT MAY 21, 2021  
\$CAD**

<b>Invoice</b>	<b>Period</b>	<b>Fees</b>	<b>Disbursements</b>	<b>Subtotal</b>	<b>GST</b>	<b>Total</b>
80001415698	July 13, 2020 to September 25, 2020	102,495.00	-	102,495.00	5,124.75	107,619.75
8001431842	September 26, 2020 to October 23, 2020	17,352.50		17,352.50	867.63	18,220.13
8001848923	October 24, 2020 to May 21, 2021	87,002.50		87,002.50	4,350.13	91,352.63
		<u>206,850.00</u>	<u>-</u>	<u>206,850.00</u>	<u>10,342.50</u>	<u>217,192.50</u>

# **APPENDIX "E"**

**IN THE MATTER OF THE RECEIVERSHIP OF 1764239 ALBERTA LTD.  
SUMMARY OF LEGAL FEES  
AS AT MAY 21, 2021  
\$CAD**

<b>Invoice</b>	<b>Period</b>	<b>Fees</b>	<b>Disbursements</b>	<b>Subtotal</b>	<b>GST</b>	<b>Total</b>
12428253	July 27, 2020 to July 31, 2020	405.00	-	405.00	20.25	425.25
12436428	August 1, 2020 to August 28, 2020	3,889.00	133.00	4,022.00	201.10	4,223.10
12445550	August 29, 2020 to September 23, 2020	4,058.00	25.30	4,083.30	204.17	4,287.47
12454943	October 19, 2020 to October 22, 2020	1,350.00		1,350.00	67.50	1,417.50
12463901	November 1, 2020 to November 26, 2020	2,345.00	252.71	2,597.71	129.89	2,727.60
12483128	January 8, 2021 to January 28, 2021	1,982.50		1,982.50	198.25	2,180.75
12501052	March 22, 2021	178.50		178.50	8.93	187.43
12510879	April 5, 2021 to April 30, 2021	3,822.25		3,822.25	382.23	4,204.48
Work-in-progress	May 1, 2021 to May 21, 2021	8,000.00		8,000.00	400.00	8,400.00
		<u>26,030.25</u>	<u>411.01</u>	<u>26,441.26</u>	<u>1,612.31</u>	<u>28,053.57</u>