

TAB A

Court File No. CV-09-8156-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.
JUSTICE C. CAMPBELL

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TUESDAY, THE 28th DAY
OF APRIL, 2009

BETWEEN:



**DESJARDINS FINANCIAL SECURITY LIFE
ASSURANCE COMPANY**

Applicant

- and -

CRAIGLEE NURSING HOME LIMITED

Respondent

ORDER

THIS APPLICATION, made by the Applicant for an Order pursuant to section 47(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990 c. C.43, as amended (the "CJA") appointing Deloitte & Touche Inc. as Interim Receiver and Receiver and Manager (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of Craiglee Nursing Home Limited (the "Debtor") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Stephen Wood sworn April 23, 2009 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant, no one appearing for the persons referenced in the Service List appended hereto as Appendix "A" although duly served as appears from the affidavit of Leah Ali sworn April 27, 2009 (the "Affidavit of Service"), and on reading the consent of Deloitte & Touche Inc. to act as the Receiver,

SERVICE

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

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 47(1) of the BIA and section 101 of the CJA, Deloitte & Touche Inc. is hereby appointed Receiver, without security, of all of the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property"), including, without limitation, the real property described in Appendix "B" hereto.

RECEIVER'S POWERS

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

(a) to take possession and control of the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;

(b) to receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

PAO (c) - subject to section 11 of the Nursing Homes Act, R.S.O. 1990, c. X1.7 (the "NHA") *Phlo*
 to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;

- subject to action 11 of the NHA* *MOH*
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the powers and duties conferred by this Order, including, without limitation, Extendicare (Canada) Inc. ("**Extendicare**") or such other third party operator as the Receiver may in its discretion designate;
 - (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
 - (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
 - (g) to collect any payments or subsidies from Her Majesty the Queen in Right of Ontario as Represented by the Minister of Health and Long-Term Care ("**MOH**") and any other government body, however any monies received by the Receiver from the MOH pursuant to this Order shall be used or applied by the Receiver only in accordance with the operation of the Debtors' nursing homes which are currently licensed pursuant to the *Nursing Homes Act* R.S.O. 1990, c. N-7 as amended, and the regulations thereunder (the "**NHA**"), or otherwise carrying out the Receiver's duties. Any payments by the MOH hereunder shall be subject to MOH review and reconciliation as provided for by applicable law;
 - (h) to settle, extend or compromise any indebtedness owing to the Debtor;
 - (i) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;

- (j) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (k) to apply for such permits, licenses, approvals or permissions as may be required by any governmental authority with respect to the Property, including, without limitation, licenses under the NHA;
- (l) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (m) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (n) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$250,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,

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

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

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

4. THIS COURT ORDERS that the agreement among the Receiver, the Service Employees International Union Local 1 Canada and The Nursing Homes And Related Industries Pension Plan dated April 27, 2009 (the "Settlement Agreement") ~~in the form attached as Exhibit~~

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~~[Number] to the Affidavit of [Name] sworn [Date] be and is hereby approved and the execution of the Settlement Agreement by the Receiver be and is hereby ratified and approved.~~

5. THIS COURT ORDERS that the ~~agreement~~ between the Receiver and ~~Extendie~~ are dated April 27, 2009 (the "Management Agreement") in the form attached as Exhibit [Number] to the Affidavit of [Name] sworn [Date] be and is hereby approved and the execution of the Management Agreement by the Receiver be and is hereby ratified and approved.. RLC

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

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

7. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in paragraph 7 or in paragraph 8 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure. RLC

(and any party the Receiver retains under paragraph 3(d) of this Order including without limitation Extendie)

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

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

NO PROCEEDINGS AGAINST THE RECEIVER

9. THIS COURT ORDERS that no proceeding, enforcement process or extra-judicial proceeding in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver or Extender except with the written consent of the Receiver or Extender as applicable, or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

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

NO EXERCISE OF RIGHTS OR REMEDIES

11. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any

RC Extender solely in its capacity as agent of the Receiver under the management agreement

registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

12. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court, ^{MOH} ~~and without limiting the generality of the foregoing, the MOH is hereby directed to make all payments of funds to which the Debtors are entitled directly to the Receiver and the MOH shall not suspend, cancel or set off such payments without further order of the Court, provided, however, that nothing in this paragraph shall exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, or other mandatory statutory or regulatory provisions of applicable law from and after the date of this order.~~ ^{MOH}

CONTINUATION OF SERVICES

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

RECEIVER TO HOLD FUNDS

14. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any

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

EMPLOYEES

15. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver and Extencicare shall not be liable for any employee-related liabilities, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts, other than such amounts as the Receiver may specifically agree in writing to pay, or such amounts as may be determined in a Proceeding before a court or tribunal of competent jurisdiction.

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

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

LIMITATION ON THE RECEIVER'S LIABILITY

18. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

19. THIS COURT ORDERS that any expenditure or liability which shall properly be made or incurred by the Receiver, including the fees of the Receiver and the fees and disbursements of its legal counsel, incurred at the standard rates and charges of the Receiver and its counsel, shall be allowed to it in passing its accounts and shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person (the "**Receiver's Charge**").

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

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

FUNDING OF THE RECEIVERSHIP

22. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$750,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge .

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

24. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Appendix "B"** hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

25. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates

evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

GENERAL

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

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

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

29. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

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

31. THIS COURT ORDERS that, in the event that the conditions precedent to the coming into force of the Settlement Agreement are not satisfied as required by the Settlement Agreement, the appointment of the Receiver pursuant to this Order shall terminate *nunc pro tunc* and the Receiver shall immediately apply to the Court to be discharged.

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

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APR 28 2009

PER / PAR:

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APPENDIX "A"

SERVICE LIST

TO: Craiglee Nursing Home Limited
102 Craiglee Drive
Toronto, ON M1N 2M7

AND TO: Roy McDougall
1790 Rosebank Drive
Pickering, ON L1V 1P6

AND TO: Celia McDougall
1790 Rosebank Drive
Pickering, ON L1V 1P6

AND TO: Doris McDougall
1790 Rosebank Drive
Pickering, ON L1V 1P6

AND TO: Sack Goldblatt Mitchell
20 Dundas Street West
Suite 1130, Box 180
Toronto ON M5G 2G8

Attn: Doug Lefaive
Tel: (416) 977-6070
Fax: (416) 591-7333

Solicitors for Service Employees International Union, Local 1.0n and
the Nursing Homes and Related Industries Pension Plan

AND TO: Ministry of Finance, Insolvency Unit
33 King Street West
6th Floor
Oshawa ON L1H 8H5

AND TO: Department of Justice (CANADA)
Ontario Regional Office
The Exchange Tower Box 36
130 King Street West, Suite 3400
Toronto ON M5X 1K6

Attn: Diane Winters
Tel: (416)973-3172
Fax: (416)973-0810

AND TO: Ministry of Health & Long Term Care
Long Term Care Homes Branch
56 Wellsley Street West
9th Floor
Toronto ON M7A 2J9

Attention: Tim Burns, Director, Long Term Care Homes Branch

AND TO: Scotia Mortgage Corporation
Scotia Plaza
44 King Street West
8th Floor
Toronto ON M5H 1H1

Attn: Sherry Hanlon
Tel: (416) 866-4715
Fax: (416) 866-7767

AND TO: The Consumers' Waterheater Income Fund
80 Allstate Parkway
Markham ON L3R 6H3

APPENDIX "B"
LEGAL DESCRIPTIONS OF PROPERTY

In respect of those land and premises municipally known as 94, 96 & 102 Craiglee Drive, Toronto, Ontario and 10 Sharpe Street, Toronto, Ontario

Consolidation of various properties being Lots 508, 509, 510, 513, 514, 523 & 524 on Plan M-388; Part of Lot 526 on Plan M-388, designated as Part 2 on Plan 66R-20226, Part of Lot 525 on Plan M-388, designated as Part 4 on Plan 66R-20226; Part of Lot 512, being the westerly 7 feet 10 inches in Plan M-388; Lot 511 (except Part 1 on Plan 66R-11153), Part of Lot 512, lying to the east of the northerly 7 feet 10 inches on Plan M-388, City of Toronto (formerly City of Scarborough), Land Titles Division of the Toronto Registry Office (No. 66), being all of PIN 06432-0413(LT).

In respect of those land and premises municipally known as 9 Vanburgh Avenue, Toronto, Ontario

Consolidation of Various Properties:
Firstly: Part of Lot 526, Plan M-388, designated as Part 1, Plan 66R-20226;
Secondly: Part of Lot 525, Plan M-388, designated as Part 3, Plan 66R-20226;
City of Toronto (formerly City of Scarborough), Land Titles Division of the Toronto Registry Office (No. 66), being all of PIN 06432-0409(LT),

APPENDIX "C"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that Deloitte & Touche Inc., the interim receiver and receiver and manager (the "Receiver") of all of the assets, undertakings and properties of Craiglee Nursing Home Limited appointed by Order of the Ontario Superior Court of Justice (the "Court") dated the 28th day of April, 2009 (the "Order") made in an action having Court file number _____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

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

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

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

DATED the ____ day of _____, 2009.

DELOITTE & TOUCHE INC., solely in its
capacity as Receiver of the Property (as defined
in the Order), and not in its personal capacity

Per: _____

Name:

Title:

**DESJARDINS FINANCIAL SECURITY LIFE ASSURANCE COMPANY
LIMITED**

Applicant

and

CRAIGLEE NURSING HOME

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at **TORONTO**

ORDER

BLANEY McMURTRY LLP
Barristers and Solicitors
2 Queen Street East, Suite 1500
Toronto, ON M5C 3G5

Eric Golden (LSUC #38239M)
(416) 593-3927 (Tel)
(416) 593-5437 (Fax)

Lawyers for the Applicant

TAB B

Court File No. CV-09-8156-00-CL

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

BETWEEN:

**DESJARDINS FINANCIAL SECURITY LIFE
ASSURANCE COMPANY**

Applicant

- and -

CRAIGLEE NURSING HOME LIMITED

Respondent

**FIRST REPORT TO THE COURT OF THE RECEIVER
(dated July 30, 2010)**

INTRODUCTION

1. Pursuant to an Order of the Honourable Justice Campbell of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated April 28, 2009 (the "Appointment Order"), Deloitte & Touche Inc. ("Deloitte") was appointed as Interim Receiver and Receiver and Manager (the "Receiver") of all of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited ("Craiglee"). A copy of the Appointment Order is attached hereto as **Appendix "A"**.
2. At the application for the appointment of the Receiver, counsel to Craiglee, Aylesworth LLP, raised certain objections. The Endorsement issued by the Honourable Justice

Campbell on April 28, 2009 provided, among other things, that Craiglee and its principals Roy McDougall and his spouse Doris McDougall (collectively the "**McDougalls**") reserved their right to challenge the receivership continuing beyond May 11, 2009. Neither Craiglee nor the McDougalls brought an application to challenge the continuation of the receivership. A copy of the Endorsement of April 28, 2009 is attached hereto as **Appendix "B"**.

3. Craiglee's assets comprise primarily Craiglee Nursing Home, a 169-bed nursing home located at 102 Craiglee Avenue, Toronto, Ontario. Craiglee is also the registered owner of the property located at 9 Vanbrugh Ave., Toronto ("**9 Vanbrugh**"), a single family two storey residence which is located adjacent to the nursing home.
4. This First Report of the Receiver (the "**Report**") provides the Court with a summary of the Receiver's activities since the Appointment Date to July 15, 2010. In particular, the purpose of the Report is to:
 - inform the Court of the Receiver's activities immediately prior to and since the Appointment Date to July 15, 2010, including its activities in taking possession of the assets of Craiglee, and seek approval of those activities;
 - inform the Court of the operating results for Craiglee from the Appointment Date to April 30, 2010;
 - seek the Court's approval to engage a real estate broker to market Craiglee for sale and seek approval for a proposed sale and marketing program for Craiglee; and
 - seek the Court's approval of the fees and disbursements of the Receiver and those of its counsel.
5. Capitalized terms not defined in this Report are as defined in the Appointment Order. All references to dollars are in Canadian currency unless otherwise noted.

TERMS OF REFERENCE

6. In preparing the Report, the Receiver has relied upon records of Craiglee and unaudited financial information prepared by Craiglee or Extendicare (Canada) Inc. ("**Extendicare**"), the manager of the nursing home. The Receiver has not performed an audit or other verification of such information.
7. The Receiver has sought the advice of Blaney McMurtry LLP ("**Blaneys**"), counsel to the Applicant, for general legal matters that have arisen in respect of the receivership. Where the Receiver has required independent legal advice, the Receiver has sought the counsel of Gowling Lafleur Henderson LLP ("**Gowlings**").

PRE-RECEIVERSHIP ACTIVITIES*Agreement with SEIU and NHRIPP*

8. In preparation for the receivership appointment, Blaneys contacted Sack Goldblatt Mitchell LLP ("**Sack**"), counsel to Service Employees International Union, Local 1.0n ("**SEIU**") and Nursing Homes and Related Industries Pension Plan ("**NHRIPP**"), to advise of the receivership application and to discuss the terms under which the proposed Receiver would engage approximately 108 of Craiglee's employees who were members of SEIU. Those discussions, in which the proposed Receiver participated, culminated in the proposed Receiver, SEIU and NHRIPP agreeing to the terms of an agreement (the "**Union Agreement**") dated April 24, 2009 that was to become effective upon the Receiver's appointment and would be subject to a ratification vote by the union members. A copy of the Union Agreement is attached hereto as **Appendix "C"**.
9. The Union Agreement provided for, among other things, the following:
 - i) The Receiver adopting certain Workplace Practices (as defined in the Union Agreement) subject to certain qualifications and limitations;

- ii) The SEIU agreeing that the Receiver and any party acting through or with the Receiver would not be deemed to be a successor or related employer under any Employment Legislation;
- iii) The Receiver satisfying certain outstanding and unpaid union dues and pension plan contributions;
- iv) The SEIU members receiving certain wage increases and retroactive adjustments as specified in the Union Agreement; and
- v) The Receiver working with SEIU to resolve certain Unresolved Grievances as listed in a schedule to the Union Agreement. All other outstanding grievances would be withdrawn by the SEIU. The Union Agreement also set out the Grievance and Arbitration Procedure which provided procedures for the filing and resolution of the Unresolved Grievances and any future grievances on or after April 24, 2009 between SEIU members and the Receiver.

Management Agreement with Extendicare (Canada) Inc.

- 10. On or about February 5, 2009, Craiglee engaged Extendicare to manage Craiglee on its behalf. Prior to February 5, 2009, Craiglee was managed by its owners, Roy and Doris McDougall, and Celia McDougall, who also acted as Craiglee's Administrator.
- 11. The Receiver was advised by representatives of Extendicare that Extendicare had been engaged by Craiglee in order to assist Craiglee in dealing with various continuing and recurring contraventions of the Service Agreement as entered into between Craiglee and the Ministry of Health and Long-Term Care (the "MOH"), the Nursing Homes Act, and the regulations by the licensee, all of which had resulted in the MOH ceasing to authorize admissions to the nursing home commencing on October 31, 2008.
- 12. In preparation for the Applicant's receivership application, the Receiver contacted Extendicare and another nursing home management company on or about April 13, 2009 and requested proposals for the management of Craiglee in receivership.

13. After discussing with the Applicant the two proposals received, Extendicare was selected to be the nursing home management company based on pricing and its familiarity and experience with Craiglee. The Applicant, the proposed Receiver and Extendicare entered into negotiations which culminated in a Management Agreement dated April 28, 2009. The Receiver subsequently sought the MOH's approval of the Management Agreement as required under the Nursing Home Act, which approval was received by way of an Agreement to Approve a Management Agreement ("Approval Agreement") dated April 8, 2010.

POSSESSION AND SECURITY

14. On April 28, 2009, the Receiver, accompanied by representatives of Extendicare, attended at Craiglee. The Receiver initially met with Celia McDougall to advise her of the Appointment Order and to tour the property.
15. Based on its review of the premises and given the 24 hour accessibility requirements, it was determined that no external locks to the nursing home needed to be changed.
16. The Receiver arranged for termination of any external access to Craiglee's computer systems. In addition, the Receiver terminated a feed from the internal security cameras that had been linked to a monitor located at 9 Vanbrugh, which at the time was inhabited by members of the McDougall family.
17. On April 29, 2009, the Receiver contacted Craiglee's insurance broker, Marsh Canada Limited, and requested that the Receiver be added as a named insured and loss payee on Craiglee's insurance policies. On May 1, 2009, Marsh confirmed that the Receiver had been added to all of Craiglee's insurance policies. Given Extendicare's significant experience in owning and managing similar facilities, the Receiver requested that Extendicare review Craiglee's insurance policies to determine if the coverage was sufficient. Extendicare provided its view to the Receiver that the insurance coverage was adequate.

18. On April 29, 2009, the Receiver contacted the financial institutions at which Craiglee's bank accounts were maintained and informed them of the receivership proceedings, provided them with a copy of the Appointment Order and requested that Craiglee's accounts be frozen to disbursements, that deposits continue to be accepted and that all funds in the accounts be forwarded to the Receiver. The Receiver subsequently received \$604,711.54 from the Canadian Imperial Bank of Commerce and \$278.15 from The Bank of Nova Scotia, all in respect of Craiglee's bank accounts. The Receiver also took possession of blank cheques that were at Craiglee.
19. Based on its prior experience in nursing home receiverships and the going concern operation of the facility in which there is a continual inflow and outflow of supplies, the Receiver determined that it was not necessary to take an inventory of Craiglee's assets as of the Appointment Date.
20. Upon its appointment, the Receiver wrote to ADP Canada ("ADP"), Craiglee's payroll service provider, informed it of the receivership and requested that ADP set up new payroll accounts in order to provide for a seamless continuance of payroll.
21. On May 6, 2009, the Receiver issued the Notice of Receiver pursuant to section 245(1) of the *Bankruptcy and Insolvency Act* (the "Notice") to all unsecured creditors of Craiglee and forwarded the Report of Receiver pursuant to section 246(1) of the *Bankruptcy and Insolvency Act* ("Section 246(1) Report") to the Official Receiver. A copy of the Notice and the Section 246(1) are attached hereto as Appendix "D".

MANAGEMENT AND FUNDING OF CRAIGLEE

22. As set out above, the Receiver engaged Extendicare to act as day-to-day manager of Craiglee on behalf of the Receiver. Extendicare assigned a regional manager to the nursing home and engaged its internal specialists in nursing, dietary, administration, environmental, marketing and accounting to review and advise the Receiver on the operation of Craiglee. Pursuant to the Management Agreement, Extendicare has prepared

operational review reports and has prepared budgets and cash flow forecasts for Craiglee which have been reviewed by the Receiver.

23. Extendicare maintains the accounting records and provides the Receiver with monthly operating reports with comparisons to budget and a variance analysis.
24. MOH funding is received by the Receiver on or about the 22nd day of each month. Each month, Extendicare provides the Receiver with a cash flow forecast and a funding request for the subsequent month. Based on that funding request, the Receiver issues cheques for deposit into the operating bank account and the payroll account which are maintained by Extendicare. The Receiver reviews and co-signs all disbursements.

EMPLOYEES

Bargaining Unit Employees

25. On April 28, 2009, the Receiver commenced holding rotating meetings with Craiglee's union employees to advise them of the Appointment Order and the Receiver's intention of operating the facility with a view to conducting a sale of the facility on a going concern basis. Further union employee meetings were held on April 29, 2009 with SEIU representatives in attendance. After those meetings, the SEIU conducted its vote on the Union Agreement. On April 30, 2009, the SEIU advised the Receiver that its local members had unanimously ratified the Union Agreement. The Receiver has held subsequent meetings with union representatives and bargaining unit members to continue to elicit their support during the receivership process.
26. A condition of the Union Agreement was that the Receiver agreed to fund union dues arrears of \$3,400 and estimated pension fund contribution arrears of \$39,522 that were outstanding and unpaid as of the date of the Appointment Order. The Receiver has made these payments.
27. Blaneys has advised the Receiver that all Unresolved Grievances have been resolved with the SEIU.

28. Extendicare has advised that approximately 30 grievances have been filed by bargaining unit members since the Appointment Date. Of those grievances filed, approximately seven remain outstanding; however, Extendicare advises that none of these grievances are material and should be resolved shortly.

Non-Union Employees

29. On April 28, 2009, the Receiver also held rotating meetings with Craiglee's non-union employees (approximately 19). These employees were also advised of the Receiver's plans and that the Receiver would be engaging them on a temporary week-to-week basis until further notice in substantially the same job and position as they were performing previously as employees of the Respondent. The Receiver further advised that a letter of employment would be provided to them once the Receiver had an opportunity to review employment records and assess its business needs.
30. On May 5, 2009, the Receiver distributed letters to all non-union staff members detailing the terms of their employment by the Receiver. All of the non-union staff returned signed acknowledgements reflecting that they understood and agreed to the terms of employment by the Receiver.
31. Initially the Receiver engaged all non-union staff while Extendicare, at the Receiver's request, conducted a review of non-union staff and the business requirements relative to occupancy levels and workloads for operation of the facility going forward. Based on Extendicare's review and recommendations, on May 26, 2009, the Receiver terminated six non-union staff, including Celia McDougall and three other McDougall family members (the "McDougall Employees"). Each of the McDougall Employees was paid a nominal termination payment, the amount of which was based on their position and salary at Craiglee, in exchange for executing a full and final release.
32. The Receiver was advised that prior to its appointment, both Roy and Doris McDougall, although not actively involved in the day-to-day operations of the facility, had been

receiving regular payments from Craiglee. Upon its appointment, the Receiver terminated any further payments to Roy and Doris McDougall.

33. Prior to the Appointment Date, Craiglee had been utilizing temporary staff from various employment agencies due to a shortage of employees in various areas, particularly nursing. Through a concerted hiring effort earlier this year, the Receiver has hired in excess of 42 full- and part-time employees thereby reducing Craiglee's reliance on temporary staff. By increasing the number of permanent employees, Craiglee has been better able to develop consistent health care practices among its staff.

Human Rights Complaint

34. On May 14, 2010, the Receiver received a letter from the Human Rights Tribunal of Ontario (the "Tribunal") indicating that an Application (the "HR Application") under the Human Rights Code, R.S.O. 1990, c. H 10, as amended, had been filed on January 10, 2010 by Elaine Budd, a bargaining unit employee, against Craiglee Nursing Home Limited, Celia McDougall and Roy McDougall (collectively, the "HR Respondents"). A copy of the HR Application is attached hereto as **Appendix 'E'**.
35. Unbeknownst to the Receiver, the Tribunal had issued a Notice of Application (the "Notice of Application") on March 17, 2010 which required a response from the HR Respondents within 35 days. Having not received either the HR Application or the Notice of Application, the Receiver did not respond to the Tribunal on behalf of Craiglee within the 35 day period.
36. On May 12, 2010, the Tribunal issued an Interim Decision which provided a further 10 days for the organizational respondent, that being Craiglee, to respond to the HR Application. A copy of the Interim Decision is attached hereto as **Appendix 'F'**.
37. The Receiver and Blaneys reviewed the Application and determined that it related to events that occurred prior to the Appointment Date. Accordingly, on May 21, 2010, Blaneys responded to the Tribunal on behalf of the Receiver indicating that it was the

Receiver's position that the HR Application was stayed pursuant to the Appointment Order and that the Receiver was not prepared to consent to a continuation of the Application as against Craiglee. A copy of the responding letter to the Tribunal is attached hereto as **Appendix "G"**.

38. By letter dated July 12, 2010, the Tribunal directed Ms. Budd and the HR Respondents other than Craiglee to make submissions to the Tribunal by July 26, 2010 on "... the impact of the Receivership Order on the Application including any response to the position of the Receiver and any other submissions (including whether the order has an impact on the continuation of the Application against the individual respondents)." The Tribunal also directed the Receiver to "... provide the Tribunal with information as to the status of the Order if changed from that outlined in your previous correspondence of May 21, 2010." The Receiver has advised its counsel to advise the Tribunal that there has been no change in the status of the Appointment Order. A copy of the July 12, 2010 letter is attached hereto as **Appendix "H"**.
39. By letter dated July 19, 2010, Ms. Budd advised the Tribunal that she was withdrawing her complaint against Craiglee but was continuing her complaint against Celia McDougall and Roy McDougall. A copy of the July 19, 2010 letter is attached hereto as **Appendix "I"**.

RESIDENTS OF THE NURSING HOME

40. Upon its appointment, the Receiver arranged to hold meetings with the residents and their families to inform them of the receivership and answer questions they may have regarding the receivership process and the Receiver's intentions. The Receiver arranged for Craiglee's staff to telephone family members of each resident to inform them of the date and time of the meeting. The first meeting was held during the evening of April 30, 2009. Representatives of the MOH and Extendicare also attended the meeting and addressed questions and concerns raised.

41. On June 9, 2009, the Receiver held a second meeting with the residents and their families, the purpose of which was to advise them of the termination of Celia McDougall, the previous Administrator, introduce the new Administrator and address questions and concerns. Representatives of the MOH and Extendicare were also in attendance at the second meeting.
42. Outside of these two meetings, the Receiver has also responded to other inquiries from families of current residents and potential residents regarding the status of the home and the Receiver's mandate.
43. In May 2010, Craiglee participated in a fundraising event organized by Extendicare on behalf of their managed homes. Craiglee's portion of the funds raised totalled \$20,000 which was received on July 12, 2010. The Receiver is working with Craiglee's Administrator to determine how the funds will be deployed for the benefit of the residents.

MINISTRY OF HEALTH AND LONG-TERM CARE

Compliance Issues and Status

44. On October 31, 2008, prior to the appointment of the Receiver, the MOH issued a letter to Craiglee advising that it had placed Craiglee under enforcement inspection and had suspended admissions due to "... continuing and recurring contraventions of the service agreement, the Act and the regulations by the licensee." A copy of the letter issued by the MOH to Craiglee, and all other correspondence from the MOH discussed below, are attached hereto as Appendix "J".
45. The suspension of admissions continued until April 14, 2009, at which time the MOH issued a letter dated April 9, 2009 advising that it was lifting the suspension effective April 14, 2009 but was limiting admissions to two new residents per week while it continued its enforcement inspections.

46. By letter dated May 1, 2009, the MOH advised that it would continue to allow admissions at the rate of two new residents per week for the following two week period and that Craiglee would remain under enforcement inspection for a further 90 days.
47. By letter dated May 15, 2009, the MOH advised that it would continue to allow admissions at the rate of two residents per week for the following two week period.
48. By letter dated May 29, 2009, the MOH advised that the limit on admissions was being increased to three residents per week for the following four week period.
49. By letter dated June 29, 2009, the MOH advised that it was again suspending admissions at Craiglee for a 30 day period for reasons as set out in that letter.
50. By letter dated July 28, 2009, the MOH advised that it was continuing to suspend admissions at Craiglee for a further 30 day period for reasons as set out in that letter.
51. On August 12, 2009, the Receiver along with representatives of Extendicare met with representatives of the MOH to discuss the status of the enforcement monitoring of Craiglee. While the MOH acknowledged the significant amount of effort and changes that had been implemented at Craiglee to address areas of concern identified by the MOH, the MOH advised that enforcement inspections and suspension of admissions would continue until they were satisfied that all areas of concern had been appropriately addressed.
52. By letter dated August 28, 2009, the MOH advised that it was lifting the suspension on admissions and it would be allowing admissions at rates as set out in that letter. The letter also states that inspections of Craiglee would continue.
53. By letter dated October 30, 2009, the MOH advised that it was discharging Craiglee from enforcement inspection and monitoring, but that Craiglee would be subject to a period of probation of not less than 90 days in duration.

54. By letter dated January 14, 2010, the MOH advised that it was placing Craiglee back under enforcement monitoring for reasons as set out in that letter.
55. By letter dated February 24, 2010, the MOH advised that effective February 14, 2010, enforcement monitoring of Craiglee would continue for a further 90 days.
56. By letter dated March 22, 2010, the MOH advised that it was again suspending admissions at Craiglee for a 30 day period commencing on that date for reasons as set out in that letter.
57. By letter dated April 20, 2010, the MOH advised that it was continuing suspension of admissions at Craiglee for a further 30 day period.
58. The Receiver held a number of discussions and meetings with Extendicare during the period from January through April of this year in order to identify and address the causes for the areas of non-compliance that resulted in the suspension of admissions. Extendicare was of the view that the failure to achieve and maintain the appropriate standards of care was due to certain staff issues as well as the high use of agency nursing personnel. Accordingly, the Receiver authorized Extendicare to focus on hiring permanent nursing staff to reduce the use of agency workers, improve Craiglee's staffing compliment and implement the appropriate training to address the areas of non-compliance. As a result, from January to May 2010, the Receiver hired 42 new nursing staff and personal support workers.
59. By letter dated May 20, 2010, the MOH advised that it was lifting the suspension of admissions at Craiglee and would allow admissions at the rates as set out in that letter. It further advised that Craiglee would remain in Enforcement and further inspections of Craiglee would continue.
60. On June 9 and 10, 2010, the MOH conducted a further monitoring inspection of Craiglee during which no new areas of non-compliance were identified by the MOH.

61. Craiglee continues to admit new residents while further reviews by the MOH are expected. Craiglee continues to operate under Enforcement.

Financial Matters

62. Prior to the Appointment Date, Blaneys contacted the MOH to advise of the Applicant's intention to seek the appointment of the Receiver. The MOH advised that while it did not object to the Applicant's motion, the MOH wished to preserve its right to dispute the terms of the Appointment Order that precluded set off of pre-filing amounts owed to the MOH by Craiglee against post-filing funding to be provided by the MOH to the Receiver.
63. At the hearing held on the Appointment Date, the issue of funding and right of set off was adjourned until May 11, 2009.
64. Prior to the May 11, 2009 appointment, the Receiver and the MOH agreed to further adjourn the hearing of the funding and set off issue until June 16, 2009 to give the parties the opportunity to have further discussions. A copy of the Honourable Justice Campbell's Endorsement adjourning the hearing to June 16, 2009 is attached hereto as **Appendix "K"**.
65. On June 5, 2009, the Receiver, Blaneys, and representatives of the Applicant met with the MOH to discuss the status of the receivership and the set off issue. It was resolved that the Receiver would provide a budget and certain other financial information in advance of a further meeting with the MOH to be held later in the summer. The hearing of the funding and set off issue was adjourned to a date to be determined.
66. By letter dated June 8, 2009, the MOH advised the Receiver that it had engaged Finucci Watters ("**Finucci**") to conduct a financial inspection of Craiglee pursuant to the authority provided by Section 24 of the Nursing Homes Act. The Receiver was advised that the engagement of the accounting firm would allow the MOH to determine the extent of Craiglee's pre-receivership indebtedness to the MOH. A copy of the June 8, 2009 letter is attached hereto as **Appendix "L"**.

67. On August 18, 2009, the Receiver met a second time with the MOH to discuss the operational status of Craiglee and to provide the financial information that was requested at the June 5, 2009 meeting.
68. By letter dated October 2, 2009, the MOH requested further operational and financial information from the Receiver. A copy of the MOH's letter of October 2, 2009 and the Receiver's responding letter dated October 20, 2009, without appendices attached, is attached hereto as **Appendix "M"**.
69. On November 26, 2009, in response to an inquiry from the MOH, the Receiver confirmed to the MOH that the Applicant had not received any debt service payments since the Appointment Date and that no payments were expected to be made until Craiglee returned to full occupancy and its cash flow supported such payments.
70. On November 30, 2009, the MOH provided the Receiver with copies of audited financial statements prepared by Finucci for 2007 and 2008 and notice to reader statements for the period January 1 to April 28, 2009. The statements indicate that Craiglee's indebtedness to the MOH totalled \$3,182,343 as at December 31, 2008.
71. The Receiver has not had any further discussions with the MOH regarding the funding and set off issue and the hearing of the funding and set off issue has not yet been rescheduled. The MOH continues to fund Craiglee based on 100% occupancy, without set off relating to the pre-receivership period, but which will be subject to subsequent clawbacks based on actual occupancy during the receivership period.

Licensing and Service Accountability

72. In accordance with the *Long-Term Care Homes Act, 2007* (the "**LTC Act**") which came into force on July 1, 2010, the MOH issued replacement licences to Craiglee for 169 beds on July 1, 2010. The expiration date of the licenses is July 21, 2024.
73. In conjunction with the coming into force of the LTC Act, and pursuant to subsection 20(1) of the *Local Health System Integration Act, 2006* and Part III of the *Commitment to*

the Future of Medicare Act, 2004, Craiglee is required to enter into a Service Accountability Agreement ("SAA") with the Central East Local Health Integration Network (the "LHIN"), which is the local health integration network responsible for the planning, funding and integration of health care services in the area in which Craiglee is based. Accordingly, the Receiver executed the SAA on behalf of Craiglee effective as of July 1, 2010.

ASSETS OF CRAIGLEE

74. According to Craiglee's audited financial statements for the year ended December 31, 2008 as prepared by Finucci on behalf of the MOH, the assets of Craiglee consisted of accounts receivable from certain residents, food and supply inventory, the land and building comprising Craiglee including the equipment, furniture and fixtures located therein and the land and building located at 9 Vanbrugh. In addition, Craiglee is the beneficial owner of 169 nursing home bed licences.
75. To date, the Receiver has authorized approximately \$151,000 of capital expenditures for the facility, of which \$44,200 relate to building improvements, \$93,900 for furniture and fixtures and \$12,900 for computer hardware and software. The Receiver will continue to make capital expenditures for the facility on an as needed basis.
76. After the Appointment Date, the Receiver was advised that Michael McDougall was residing at 9 Vanbrugh. Despite repeated requests, Michael McDougall would not provide the Receiver with a copy of the lease evidencing the terms of his tenancy. Accordingly, on September 21, 2009, Blaneys sent a Demand for Particulars of Tenancy Agreement, a Notice to Tenants and a Notice of Rental Attornment to Michael McDougall, copies of which are attached hereto as **Appendix "N"**.
77. By letter dated September 30, 2009 addressed to Michael McDougall, Blaneys confirmed a conversation with him of the previous day in which he advised that he already vacated the premises and would remove any remaining property by October 15, 2009. A copy of the September 30, 2009 letter is attached hereto as **Appendix "O"**.

78. On October 16, 2009, the Receiver took possession of 9 Vanbrugh and changed the locks. The premises is currently vacant and will remain so while the receiver conducts its sale process (discussed below), to determine if a potential purchaser may wish to acquire 9 Vanbrugh together with the nursing home assets.

OPERATIONAL RESULTS

79. At the Appointment Date, the occupancy at Craiglee was approximately 131 residents or 78%. Occupancy increased to 133 or 79% by June 28, 2009 at which point the MOH again suspended admissions. By August 28, 2009, the date when Craiglee was reopened to admissions, occupancy had decreased to 131. Through the fall of 2009, occupancy increased to as high as 149 or 88% until January 14, 2010, when admissions were again suspended, thereby resulting in a drop in occupancy to 132 by April 30, 2010. The occupancy as at July 15, 2010 is 132 residents.
80. Attached hereto as **Appendix "P"** is an operating statement summary for Craiglee for the period May 1, 2009 to April 30, 2010 (the **"Results Period"**). Craiglee has generated positive net operating income (before consideration of interest, depreciation and capital expenditures) of \$252,800 over the Results Period which is \$462,145 below budgeted operating income (before consideration of interest, depreciation and capital expenditures).
81. The negative variance over the Results Period is essentially due to the following:
- i) Significantly lower occupancy levels than budgeted due the suspension of admissions for the period June 29, 2009 to August 28, 2009, and again during the period of March 22 to May 20, 2010;
 - ii) Non-operating costs of \$116,000 that were not included in the budget that relate to termination payments for certain employees, appraisal costs, payments made pursuant to the Union Agreement and other miscellaneous costs;

- iii) Repairs and maintenance costs that were \$89,800 over budget due certain unforeseen costs to repair certain boilers and plumbing and certain flooring among other miscellaneous repairs; and
- iv) An approximately \$44,000 lower receipt than anticipated in the April 2010 funding payment from the MOH. In April 2010, the MOH adjusted the Case Mix Index ("CMI") down from 100.00 to 89.22 resulting in lower funding for Craiglee. The CMI reflects the complexity of care that the residents of a nursing home require – the higher the CMI, the higher the level of care that is required resulting in a higher level of funding in order to deliver that care. Despite numerous inquiries of the MOH, the MOH has not yet provided an explanation for the downward adjustment to the CMI. The CMI adjustment continued in May and June 2010 and the Receiver and Extendicare continue to pursue the MOH as to the reason for the CMI adjustment.

82. In light of the suspension of admissions for the period June 29, 2009 to August 28, 2009 and again during the period of March 22 to May 20, 2010, it is now anticipated that Craiglee will not approach full occupancy until late 2010 or early 2011.

INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

83. Attached hereto as **Appendix "Q"** is the Receiver's Interim Statements of Receipts and Disbursements for the period April 28, 2009 to July 15, 2010 (the "**Interim R&D**"). The Interim R&D balance of \$1,463,552 reflects transactions through the Receiver's accounts and does not reflect the receipts and disbursements of the operating and payroll accounts managed by Extendicare, which are maintained on an accrual basis and are reflected in the aforementioned operating statement summary.
84. Since the MOH has funded the Receiver based on 100% occupancy while actual occupancy has averaged approximately 80%, a portion of the MOH funding will be required to be repaid to the MOH. As of December 31, 2009, the estimated amount of funds to be reimbursed to the MOH is \$1,106,446. Typically, the MOH recovers the over

payment by deducting, or clawing back, an amount from future funding until the over payment has been fully recouped. As of the date of this report, the MOH has not yet commenced deducting any amounts from current funding in respect of over payments to the Receiver. Accordingly, while the Receiver is currently maintaining a relatively large balance of cash on hand, it is mindful that those funds will be required to fund operations once the MOH commences its clawback of current funding to adjust for overfunding of Craiglee during the receivership period.

MARKETING AND SALE PROCESS

85. The Receiver is of the view that it is now appropriate to commence a marketing and sale process for the assets and property of Craiglee given that:
- The Receiver has been in possession for just over one year in which time, with Extendicare's assistance, the business has been stabilized and is running relatively efficiently;
 - A new management team, including the Administrator and Director of Resident Care, is now in place and is implementing positive changes; and
 - The Long-Term Care Act 2007 has now been implemented which appears to have brought clarity to licensing issues that have impacted the market for nursing homes over the past few years.
86. To that end, commencing in March 2010, the Receiver solicited two listing proposals from real estate brokers with experience in the area of seniors' housing. Based on the proposals received, the Receiver has selected John A. Jensen Realty Inc. ("Jensen") to market Craiglee for sale.
87. Jensen has significant experience on both the buy and sell side of seniors' housing facilities. Jensen advises that it has closed approximately 118 transactions in the seniors' housing sector with an aggregate value in excess of \$730,000,000.

88. Jensen's marketing program involves the following:

- Distributing a general listing announcement to all relevant contacts registered in its proprietary database of approximately 1,200 contacts;
- Placing a listing on its brokerage website;
- Inserting a listing on Loop-Net, an online commercial real estate listing service;
- Placing four display advertisements in the Globe & Mail newspaper;
- Providing interested parties with a confidentiality agreement to be executed prior to receiving further information on the property;
- Providing secure access to an on-line data room to all potential purchasers who execute a confidentiality agreement;
- Conducting site tours as requested by potential purchasers; and
- Cooperating with other licensed real estate brokerages that have entered into a buyer representation agreement with their client(s).

89. Jensen proposes to conduct the sale of Craiglee under a "sunrise date" method for dealing with offers. Under the sunrise date method, a date is set prior to which no offers will be considered. According to Jensen, this method instills urgency in potential buyers while still providing them with adequate time, before having to submit an offer, to consider the merits of the investment opportunity. The sunrise date method also provides the seller with flexibility in dealing with offers after the sunrise date has passed.

90. Jensen proposes to set a sunrise date that is six weeks from the date of Court approval of the marketing and sale program. As part of the marketing program, Jensen and the Receiver reserve the right to adjust the sunrise date prior to the launch of the marketing program due to any unforeseen factors that may impact the appropriateness of the sunrise date. Similarly, Jensen and the Receiver also reserve the right to adjust the sunrise date

during the marketing program should the Receiver determine it would be prudent for the success of the marketing program.

91. Jensen recommends that Craiglee be offered for sale without a published asking price. According to Jensen, by eliminating the asking price from the marketing material, it lessens the risk that a potential purchaser who would otherwise be willing to pay more than the asking price from offering less simply because the asking price optically creates a ceiling for offers. Jensen further advises that this methodology is a widely accepted and expected strategy for the sale of seniors housing including facilities being sold in receivership and the lack of an asking price also works well with the sunrise date methodology.
92. To the extent that an acceptable proposal or letter of intent is received from a potential purchaser after the sunrise date, the Receiver, in consultation with the Applicant and Canada Mortgage and Housing Corporation ("CMHC"), who has insured the Applicant's mortgage to Craiglee, would enter into an agreement of purchase and sale with the proposed purchaser, which agreement would be subject to court approval.
93. The Receiver recommends proceeding with Jensen's proposed marketing and sale program as detailed above and seeks this Honourable Court's approval of same.
94. Deloitte is also the receiver and manager of two other seniors' facilities in Ontario which are also listed for sale with Jensen. The Receiver is of the view that there would be no conflict with Jensen acting as listing agent for this property.
95. Both the Applicant and CMHC have advised the Receiver that they approve of the Receiver engaging Jensen to market the properties for sale and of the above noted marketing and sale program.
96. In order to assist the Receiver in assessing any offers received for the assets of Craiglee, the Receiver engaged Altus Group Limited ("Altus") and Carmichael Wilson Property Consultants Ltd. ("CWPC"), two valuation firms which specialize in seniors housing and

health care real estate valuation, to prepare appraisals of Craiglee. Those appraisals were completed in February and March 2010 and copies of those appraisals were provided to the Applicant and CMHC.

97. Should this Honourable Court approve the proposed marketing and sale program, the Receiver proposes to enter into a six month listing agreement with Jensen on terms, including commission rates, that are reasonable and within market norms. The Receiver will seek approval from the Applicant and CMHC of the proposed listing agreements. The Receiver also proposes to extend the listing agreement for further six month periods to the extent it believes it prudent to do so and subject to the approval of the Applicant and CMHC.

STATEMENTS OF ACCOUNT OF THE RECEIVER AND ITS COUNSEL

98. The Receiver's fees for services rendered for the period April 13, 2009 to May 31, 2010 are particularized in the Affidavit of Hartley M. Bricks sworn July 30, 2010 and the invoices attached as exhibits thereto. The total amount of the invoices for this period is \$370,487.27 including GST.
99. The fees and disbursements of Blaneys, counsel for the Applicant, in respect of work performed for the Receiver, for the period February 26, 2009 to June 29, 2010 are particularized in the Affidavit of Chad Kopach of Blaneys and the invoices attached as exhibits thereto. The total amount of the invoices for this period is \$102,158.69 including GST.
100. The fees and disbursements of Gowlings, the Receiver's independent counsel, for the period April 15, 2009 to June 30, 2010 are particularized in the Affidavit of Clifton Prophet sworn July 13, 2010 and the invoices attached as exhibits thereto. The total amount of the invoices for this period is \$25,575.70 including GST.
101. The Receiver has reviewed the invoices of Blaneys and Gowlings and finds the work performed and charges to be appropriate and reasonable.

102. The Receiver has sought and received the approval of the Applicant prior to taking interim draws against the fees of the Receiver and Blaneys. As of the date of the Interim R&D, the Receiver had not yet provided a draw to Blaneys against its June 30, 2010 invoice.
103. The Receiver is herein seeking the Court's approval of its activities up to the date of this report and its fees as set out above. The Receiver is also seeking the Court's approval for the fees of Blaneys and Gowlings as discussed above.

RECEIVER'S REQUEST TO THE COURT

104. The Receiver is respectively seeking an order:
- i) approving the actions and activities of the Receiver to the date of this Report, including its pre-receivership activities;
 - ii) approving the engagement of Jensen by the Receiver for the marketing and sale of Craiglee including approving the proposed marketing and sale program as described herein; and
 - iii) approving the fees for services rendered of the Receiver for the period from April 13, 2010 to May 31, 2010, the fees and disbursements of Blaneys for the period from February 26, 2009 to June 29, 2010 and the fees and disbursements of Gowlings for the period April 15, 2009 to June 30, 2010.

All of which is respectfully submitted to this Honourable Court.

DATED this 30th day of July, 2010.

DELOITTE & TOUCHE INC.
Interim Receiver and Receiver and Manager of
the assets, undertakings and properties of
Craiglee Nursing Home Limited

Deloitte & Touche Inc.

Daniel R. Weisz, CA•CIRP, CIRP
Senior Vice President

Hartley Bricks, MBA, CA•CIRP, CIRP
Vice President

TAB C

Court File No. CV- 09-8156-00CL



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

THE HONOURABLE MR.

JUSTICE NEWBOULD

)
)
)

WEDNESDAY, THE 1ST DAY

OF SEPTEMBER, 2010

BETWEEN:

**DESJARDINS FINANCIAL SECURITY LIFE
ASSURANCE COMPANY**

Applicant

- and -

CRAIGLEE NURSING HOME LIMITED

Respondent

ORDER

THIS MOTION made by **Deloitte & Touche Inc.**, Interim Receiver and Receiver and Manager over all of the current and future assets, undertakings and properties of the Respondent (in that capacity, the "**Receiver**") for an order approving the engagement of John A. Jensen Realty Inc. by the Receiver for the marketing and sale of Craiglee Nursing Home and the other lands and premises set out in Schedule "A" attached hereto (collectively "**Craiglee**"), approving the proposed marketing and sale process for Craiglee as set out in the First Report of the Receiver dated July 30, 2010 (the "**First Report**"), confirming and approving the actions and activities of the Receiver to the date of First Report, including its pre-Receivership activities; and approving the fees for services rendered by the Receiver for the period from April 13, 2009 to

May 31, 2010, the fees and disbursements of Blaney, McMurtry LLP ("**Blaneys**") for the period from February 26, 2009 to June 30, 2010 and the fees and disbursements of Gowling Lafleur Henderson LLP ("**Gowlings**") for the period from April 15, 2009 to June 30, 2010, was heard this day at Toronto.

ON READING the First Report, the affidavit of Hartley Bricks sworn July 30, 2010, the affidavit of Chad Kopach sworn August 11, 2010 and the affidavit of Clifton Prophet sworn July 13, 2010, and upon hearing the submissions of counsel for the Applicant, no one appearing for the Respondent, the Ministry of Health & Long Term Care appearing but not opposing,

1. **THIS COURT ORDERS** that the time for service of the Receiver's Notice of Motion returnable September 1, 2010, and related motion record be and is hereby abridged.
2. **THIS COURT ORDERS** that the fees and disbursements of the Receiver from April 13, 2009 to May 31, 2010, of Gowlings from April 15, 2009 to June 30, 2010 and of Blaneys from February 26, 2009 to June 30, 2010 , be and are hereby approved.
3. **THIS COURT ORDERS** that the actions of the Receiver and its counsel as described in the Receiver's First Report be and are hereby confirmed and approved.
4. **THIS COURT ORDERS** that the engagement of John A. Jensen Realty Inc. by the Receiver for the marketing and sale of Craiglee Nursing Home and the other lands and premises set out in Schedule "A" attached hereto, as well as the proposed marketing and sale process for Craiglee as set out in the First Report, be and are hereby approved.

5. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and Applicant related to this motion are payable on a full indemnity basis.

W. J.

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

SEP 15 2010

PER / PAR:

NB

SCHEDULE "A"

LEGAL DESCRIPTIONS OF PROPERTY

In respect of those land and premises municipally known as 94, 96 & 102 Craiglee Drive, Toronto, Ontario and 10 Sharpe Street, Toronto, Ontario

Consolidation of various properties being Lots 508, 509, 510, 513, 514, 523 & 524 on Plan M-388; Part of Lot 526 on Plan M-388, designated as Part 2 on Plan 66R-20226, Part of Lot 525 on Plan M-388, designated as Part 4 on Plan 66R-20226; Part of Lot 512, being the westerly 7 feet 10 inches in Plan M-388; Lot 511 (except Part 1 on Plan 66R-11153), Part of Lot 512, lying to the east of the northerly 7 feet 10 inches on Plan M-388, City of Toronto (formerly City of Scarborough), Land Titles Division of the Toronto Registry Office (No. 66), being all of PIN 06432-0413(LT).

In respect of those land and premises municipally known as 9 Vanbrugh Avenue, Toronto, Ontario

Consolidation of Various Properties:
Firstly: Part of Lot 526, Plan M-388, designated as Part 1, Plan 66R-20226;
Secondly: Part of Lot 525, Plan M-388, designated as Part 3, Plan 66R-20226;
City of Toronto (formerly City of Scarborough),
Land Titles Division of the Toronto Registry Office (No. 66),
being all of PIN 06432-0409(LT),

DESJARDINS FINANCIAL SECURITY LIFE ASSURANCE COMPANY

and

CRAIGLEE NURSING HOME LIMITED

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at **TORONTO**

ORDER

BLANEY McMURTRY LLP
Barristers and Solicitors
2 Queen Street East, Suite 1500
Toronto, ON M5C 3G5

Eric Golden (LSUC #38239M)
(416) 593-3927 (Tel)
(416) 593-5437 (Fax)

Lawyers for the Applicant

TAB D

Court File No. CV-09-8156-00-CL

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

BETWEEN:

**DESJARDINS FINANCIAL SECURITY LIFE
ASSURANCE COMPANY**

Applicant

- and -

CRAIGLEE NURSING HOME LIMITED

Respondent

**SECOND REPORT TO THE COURT OF THE RECEIVER
(dated November 2, 2011)**

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APPENDIX "J": E-mail correspondence from the City of Toronto's solicitor dated June 9, 2011 and Blaneys response dated June 14, 2011	
APPENDIX "K": APS between the Receiver and SAC 4 Inc. dated April 1, 2011, as amended	
APPENDIX "L": Receiver's Interim Statement of Receipts and Disbursements for the period April 28, 2009 to October 27, 2011	

INTRODUCTION

1. Pursuant to an Order of the Honourable Justice Campbell of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated April 28, 2009 (the "**Appointment Order**"), Deloitte & Touche Inc. ("**Deloitte**") was appointed as Interim Receiver and Receiver and Manager (the "**Receiver**") of all of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited ("**Craiglee**"). A copy of the Appointment Order is attached hereto as **Appendix "A"**.
2. At the application for the appointment of the Receiver, counsel to Craiglee, Aylesworth LLP, raised certain objections. The Endorsement issued by the Honourable Justice Campbell on April 28, 2009 provided, among other things, that Craiglee and its principals Roy McDougall and his spouse Doris McDougall (collectively the "**McDougalls**") reserve their right to challenge the receivership continuing beyond May 11, 2009. Neither Craiglee nor the McDougalls brought an application to challenge the continuation of the receivership. A copy of the Endorsement of April 28, 2009 is attached as Appendix "B" to the Receiver's First Report to the Court dated July 30, 2010 (the "**First Report**").
3. Craiglee's assets comprise primarily Craiglee Nursing Home, a 169-bed nursing home located at 102 Craiglee Avenue, Toronto, Ontario (the "**Home**"). Craiglee is also the registered owner of the property located at 9 Vanbrugh Ave., Toronto ("**9 Vanbrugh**"), a single family two storey residence which is located adjacent to the Home.
4. On September 1, 2010, the Honourable Justice Newbould granted an Order approving, among other things (i) the Receiver's activities from the date of the Appointment Order (the "**Appointment Date**") to July 15, 2010, including its pre-receivership activities; (ii) the fees and disbursements of the Receiver and those of its counsel; and (iii) the Receiver's engagement of John A. Jensen Realty Inc. ("**Jensen**") as its real estate broker to market Craiglee for sale and for Jensen to commence a marketing and sale process for Craiglee (the "**Sale Process Order**"). In support of the motion that resulted in the Sale

Process Order, the Receiver submitted its First Report. A copy of the First Report, without appendices, is attached hereto as **Appendix "B"**. A copy of the Sale Process Order is attached hereto as **Appendix "C"**.

5. The purpose of this Second Report of the Receiver (the "**Second Report**") is to:
- i) update the Court on the operations of Craiglee;
 - ii) provide the Court with results of the Receiver's marketing and sale process and request the Court issue an order approving an Agreement of Purchase and Sale dated April 1, 2011, as amended (the "**APS**"), as between the Receiver and SAC 4 Inc. ("**SAC 4**" or the "**Purchaser**") and, to the extent the conditions of the APS are satisfied, vesting in the Purchaser all the right, title and interest in the Assets (as defined in the APS) free and clear of all liens, security interests and other encumbrances, save and except for the permitted encumbrances referred to in the APS; and
 - iii) request the Court's approval of the Receiver's Interim Statement of Receipts and Disbursement, its fees and activities to November 2, 2011, and the fees of its counsel.
6. Capitalized terms not defined in this Report are as defined in the Appointment Order. All references to dollars are in Canadian currency unless otherwise noted.

TERMS OF REFERENCE

7. In preparing the Second Report, the Receiver has relied upon records of Craiglee and unaudited financial information and other information prepared and/or provided by Craiglee, or Extendicare (Canada) Inc. ("**Extendicare**"), the manager of the nursing home. The Receiver has not performed an audit or other verification of such information.

8. The Receiver has sought the advice of Blaney McMurtry LLP ("**Blaneys**"), counsel to the Applicant, for general legal matters that have arisen in respect of the receivership. Where the Receiver has required independent legal advice, the Receiver has sought the counsel of Gowling Lafleur-Henderson LLP ("**Gowlings**").

OCCUPANCY

9. At the Appointment Date, occupancy at the Home was approximately 131 residents or 78%. Occupancy increased to 133 or 79% by June 28, 2009 at which point the MOH suspended admissions due to compliance issues that it had identified (discussed in the First Report). By August 28, 2009, the date when the Home was reopened to admissions, occupancy had decreased to 131. Through the fall of 2009, occupancy increased to as high as 149 or 88% until January 14, 2010, when admissions were again suspended by the MOH due to compliance issues, thereby resulting in a drop in occupancy to 132 by April 30, 2010. The suspension on admissions was lifted on May 20, 2010 and from that date, occupancy has steadily increased. In early July 2011, the Home achieved 100% occupancy, and occupancy has continued to fluctuate between 97% and 100% since that time.

EMPLOYEES

Bargaining Unit Employees

10. As discussed in the First Report, the Receiver and the Service Employees International Union, Local 1.0n ("**SEIU**") entered into an Agreement (the "Union Agreement") dated April 24, 2009 whereby the Receiver agreed to adopt certain Workplace Practices (as defined in the Union Agreement) subject to certain qualifications and limitations.
11. In addition to implementing any wage rate increases as provided for in the Union Agreement, paragraph 4 of the Union Agreement provides that:

"The Receiver shall also implement any proportional wage rate increases, by job classification, contained in any future MOS on the closest pay date at Craiglee on or after the date of any MOS which provides for wage increases but in any event no earlier than July 31, 2010. For clarity, it is agreed that the Receiver is not bound by any MOS and is not agreeing to implement any terms or conditions of the MOS, other than the proportional wage rate increases as set out in the MOS."

MOS is defined in the Union Agreement as:

"A Memorandum of Settlement concerning the wages or other terms and conditions of employment between the SEIU and the Participating Nursing Homes and any successor memorandum of settlements between the SEIU and the Participating Nursing Homes."

12. The Participating Nursing Homes are comprised of approximately 100 nursing homes located throughout Ontario all of which have entered into collective agreements with the Union. On September 15, 2010, an arbitration award was made concerning Participating Nursing Homes and SEIU for a wage increase of 2% for the one year period ending September 15, 2011 (the "Arbitration Award"). As the proposed wage increase was not contained in an MOS, according to the provisions of the Union Agreement, the Receiver was not obligated to implement the wage increases from the Arbitration Award.
13. In 2010, after Extendicare had completed its review of the Home, it determined that the Home would operate more efficiently if the master schedule was modified to have 8-hour shifts rather than the mix that then existed of 8-hour and 12-hour shifts. Extendicare advised that 8-hour shifts are standard in all of the other long-term care homes that it manages, none of which operate with 12-hour shifts. Accordingly, the Receiver authorized Extendicare to proceed to modify the master schedule to remove 12-hour shifts subject to any limitations that may exist under the terms of the Union Agreement.

14. Extendicare advised the Receiver that while the bargaining unit members initially were receptive to the changes to the master schedule, around the planned time for implementation of the revised master schedule, certain bargaining unit members began to protest the revised schedule.
15. In order to obtain the bargaining unit members' acceptance of the revised master schedule, the Receiver advised the SEIU that it would agree to implement the Arbitration Award should the bargaining unit members accept the revised master schedule. The Receiver adopted this position as Extendicare had advised that the cost savings from moving to exclusively 8-hour shifts would offset the impact of the wage increases while also allowing for a more efficient schedule to manage. The bargaining unit members and SEIU accepted the Receiver's offer and the wage increase provided in the Arbitration Award was implemented in June 2011.
16. Extendicare advises that only one grievance currently remains unresolved relating to the dismissal of a bargaining unit member. That grievance is scheduled for arbitration in March 2012.

Human Rights Complaints

17. As reported in the First Report, on May 14, 2010, the Receiver received a letter from the Human Rights Tribunal of Ontario (the "**Tribunal**") indicating that an Application (the "**HR Application**") under the *Human Rights Code*, R.S.O. 1990, c. H 10, as amended (the "**HR Code**"), had been filed on January 10, 2010 by Elaine Budd, a bargaining unit employee and union steward, against Craiglee Nursing Home Limited, Celia McDougall and Roy McDougall (collectively, the "**HR Respondents**").
18. Unbeknownst to the Receiver, the Tribunal had issued a Notice of Application (the "**Notice of Application**") on March 17, 2010 which required a response from the HR Respondents within 35 days. Having not received either the HR Application or the Notice of Application, the Receiver did not respond to the Tribunal on behalf of Craiglee within the 35 day period.

19. On May 12, 2010, the Tribunal issued an Interim Decision which provided a further 10 days for the organizational respondent, that being Craiglee, to respond to the HR Application.
20. The Receiver and Blaneys reviewed the HR Application and determined that it related to events that occurred prior to the Appointment Date. Accordingly, on May 21, 2010, Blaneys responded to the Tribunal on behalf of the Receiver indicating that it was the Receiver's position that the HR Application as against Craiglee was stayed pursuant to the Appointment Order and that the Receiver was not prepared to consent to a continuation of the HR Application as against Craiglee.
21. By letter dated July 12, 2010, the Tribunal directed Ms. Budd and the HR Respondents other than Craiglee to make submissions to the Tribunal by July 26, 2010 on "... the impact of the Receivership Order on the Application including any response to the position of the Receiver and any other submissions (including whether the order has an impact on the continuation of the Application against the individual respondents)." The Tribunal also directed the Receiver to "... provide the Tribunal with information as to the status of the Order if changed from that outlined in your previous correspondence of May 21, 2010." The Receiver's counsel advised the Tribunal that there had been no change in the status of the Appointment Order.
22. By letter dated July 19, 2010, Ms. Budd advised the Tribunal that she was withdrawing her complaint against Craiglee but was continuing her complaint against Celia McDougall and Roy McDougall (the "**Individual Respondents**").
23. On August 17, 2010, the Individual Respondents filed a response with the Tribunal which indicated that it was filed on behalf of themselves and Craiglee and they requested a deferral and/or stay of the Application on the basis that Craiglee is in receivership.
24. On September 28, 2010, Blaneys, on behalf of the Receiver, advised the Tribunal that the Individual Respondents no longer have any authority to represent Craiglee.

25. On February 4, 2011, the Tribunal released an Interim Decision which accepted that the Receiver acts for Craiglee and that the HR Application against Craiglee was stayed as a result of the Appointment Order, subject to a party seeking leave of the Court. The Tribunal also requested further submissions from the parties as to whether or not the HR Application against the Individual Respondents should be stayed.
26. On February 28, 2011, Blaneys, on behalf of the Receiver, advised the Tribunal that the Receiver took no position in respect of a possible stay of proceedings against the Individual Respondents. Also, on February 28, 2011, the Individual Respondents advised the Tribunal that it was their position that the stay of proceedings should be in effect as against them as they were acting as agents for Craiglee when the alleged incident concerning the HR Application occurred.
27. On April 6, 2011, the Tribunal released a Case Assessment Direction which advised that the Tribunal had received submissions from the Receiver and the Individual Respondents but had not heard from Ms. Budd. The Tribunal directed Ms. Budd to file submissions by April 18, 2011 otherwise the Tribunal would consider the matters based on the materials filed.
28. By letter dated April 11, 2011, Ms. Budd advised the Tribunal that it was her position that the Individual Respondents were acting on their own accord and were personally liable for breaches of the HR Code. It is the Receiver's understanding that the HR Application continues against the Individual Respondents and remains unresolved.
29. On May 9, 2011, Ms. Budd filed a second Human Rights Application (the "**Second HR Application**") with the Tribunal naming Extendicare, Angie Heinz (Craiglee's Administrator), Sharon Gilmour and Paul Tuttle (both Extendicare employees) as respondents (the "**Second HR Respondents**"). In the Second HR Application, Ms. Budd alleged discrimination and refusal to provide modified work and modified hours.

30. On March 22, 2011, a Return to Work Specialist ("RTWS") from the WSIB assessed Ms. Budd's work arrangements at Craiglee and found that Ms. Budd was being accommodated for reduced hours and duties as per her family doctor's recommendations.
31. On June 2, 2011, Ms. Budd filed a Form 10 with the Tribunal requesting to add "Craiglee Nursing Home c/o Deloitte & Touche" as respondents to the Second HR Application.
32. On June 13, 2011, Blaneys, acting on behalf of the Second HR Respondents and on the Receiver's direction, filed a Response to the Second HR Application in which a request was made to dismiss the Second HR Application on the grounds that: i) the Appointment Order created a stay of proceedings and leave of the Court had not been sought or granted to lift the stay of proceedings to bring the Second HR Application; and ii) the RTWS had determined that Ms. Budd had been accommodated and provided with the modified work and modified hours which were the basis for her application.
33. By way of letter dated August 8, 2011, the Tribunal indicated that the Second HR Application as against Sharon Gilmour and Angie Heinz appeared to be outside the Tribunal's jurisdiction as Ms. Budd's application and narrative failed to set out any specific acts of discrimination within the meaning of the HR Code allegedly committed by those individuals. Accordingly, the Tribunal directed Ms. Budd to provide written submissions by August 23, 2011 explaining how those named individuals are alleged to have breached the HR Code. Additionally, the Tribunal directed Ms. Budd to provide written submissions to the Tribunal by August 23, 2011 explaining why Craiglee should be added as a party to the Second HR Application and explaining the effect of the Appointment Order on the Second HR Respondents, Extendicare and the proposed respondent Craiglee.
34. On or about August 22, 2011, Ms. Budd provided submissions to the Tribunal. On September 1, 2011, Blaneys, on behalf of the Receiver and the Second HR Respondents, responded to Ms. Budd's submissions.

35. On or about September 12, 2011, Ms. Budd, through the SEIU, proposed a settlement of the Second HR Application. On October 14, 2011, the parties executed a settlement and full and final release with respect to the Second HR Application the terms of which are confidential pursuant to the full and final release.
36. On November 2, 2011, the Tribunal released an Interim Decision which confirmed and ordered that the HR Application is withdrawn against Craiglee and continues only against the Individual Respondents.

Occupational Health and Safety Act and Human Rights Complaint

37. On or about October 12, 2010, the Receiver received notice from the Ontario Labour Relations Board ("OLRB") of an application under Section 50 ("First OHSA Application") of the *Occupational Health and Safety Act* ("OHSA"). The application was made by Marianne Amodeo, a former Craiglee employee. The First OHSA Application named Angie Heinz, Paul Tuttle, Margaret Lazure (an Extendicare manager) and Hartley Bricks (of the Receiver) as the Responding Party (the "OHSA Respondents").
38. Ms. Amodeo was hired by the Receiver on or about October 27, 2009 as a part-time Social Worker for Craiglee. Ms. Amodeo was terminated on or about June 29, 2010 for performance related issues. In the First OHSA Application, Ms. Amodeo alleged violations of harassment under Sections 32 and 50(1) of the OHSA as well as a violation under Part VII, Section 17(1) of the *Employment Standards Act, 2000*.
39. On October 25, 2010, Blaneys, on behalf of the OHSA Respondents and on the Receiver's direction, submitted a Response to the OLRB denying the allegations in the First OHSA Application.
40. On November 12, 2010, the parties attended a pre-hearing at the OLRB which was intended to attempt to effect a settlement of the First OHSA Application. No settlement was reached.

41. On or about November 21, 2010, Ms. Amodeo filed a further application under Section 50 of the OHSA (the "**Second OHSA Application**", and together with the First OHSA Application, the "**Amodeo OHSA Applications**") naming Rodrigo Cartagena, a former Administrator at Craiglee, and Chantal LaFreniere, former acting Director of Care at Craiglee, as Respondents. The Second OHSA Application alleges harassment under Sections 50(1) and 50.1 of the OHSA in the context of the same allegations of facts. On December 3, 2010, Blaneys, on behalf of Mr. Cartagena and Ms. LaFreniere and on the Receiver's direction, submitted a Response to the OLRB denying the allegations contained in the Second OHSA Application.
42. On December 18, 2010, Ms. Amodeo filed an Application (the "**Amodeo HR Application**") under the HR Code naming Mr. Cartagena, Ms. LaFreniere and Gary Loder, a manager at Extendicare, as Respondents (collectively, the "**Amodeo HR Respondents**"). The Amodeo HR Application alleged discrimination on the grounds of association with a person with a disability in connection with a Craiglee resident and discrimination due to reprisal or threat of reprisal.
43. On January 21, 2011, the Tribunal issued a Notice of Intent to Defer the Amodeo HR Application pending resolution of the Amodeo OHSA Applications. On February 18, 2011, Blaneys, on behalf of the Amodeo HR Respondents and on the Receiver's direction, made submissions to the Tribunal as to why the Amodeo HR Application should be deferred.
44. By way of Interim Decision dated March 21, 2011, the Tribunal decided that the Amodeo HR Application would be deferred pending completion of the Amodeo OHSA Applications to avoid a multiplicity of proceedings based upon essentially the same set of facts and allegations.
45. On May 9, 2011, the OLRB issued a decision adjourning the First OHSA Application for a period of up to one (1) year and confirmed that Ms. Amodeo would require the Receiver's permission or leave of the Court in order to proceed with the First OHSA

Application. On May 11, 2011, Ms. Amodeo advised that she would be seeking leave of the Court to proceed with both the Amodeo OHSA Applications and the Amodeo HR Application. On June 8, 2011, Blaneys, on behalf of the Receiver, advised Ms. Amodeo that the Receiver would not be providing its consent to Ms. Amodeo's application to proceed as it was the Receiver's position that Ms. Amodeo's claims were the result of managerial discipline arising out of the course of her employment at Craiglee and do not constitute claims within the jurisdiction of the OLRB or the Tribunal.

46. The Amodeo OHSA Applications and the Amodeo HR Applications remain in abeyance pending an application to the Court to set a timetable for the motion for leave to continue. While Ms. Amodeo has now retained counsel, no date for the motion has been set.

MINISTRY OF HEALTH AND LONG-TERM CARE

Compliance Matters

47. As set out above, the MOHLTC had intermittently throughout 2009 and 2010 ceased allowing admissions due to its concerns with the standards of care being provided at the Home. Extendicare was of the view that the failure to achieve and maintain the appropriate standards of care was due to certain staff issues as well as the high use of agency nursing personnel. The Receiver authorized Extendicare to focus on hiring permanent nursing staff to reduce the use of agency workers, improve Craiglee's staffing complement and implement the appropriate training to address the areas of non-compliance. As a result, from January to May 2010, the Receiver hired 42 new nursing staff and personal support workers. The last cease admissions directive was lifted by the MOHLTC on May 20, 2010 and since that time, the Home has not received any notices of non-compliance in regards to the LTCHA and its Regulations and MOHLTC policies.
48. Commencing on August 29, 2011 and continuing intermittently through October 3, 2011, the MOHLTC conducted its annual Resident Quality Inspection of Craiglee. As a result of its inspection, on October 20, 2011, the MOHLTC issued twelve written notices and

requested that four plans of correction action be prepared to address certain of the matters identified. Craiglee is in the process of preparing the plans of correction action as requested by the MOHLTC. A copy of the Resident Quality Inspection Report is attached hereto as **Appendix "D"**.

Financial Matters

49. As set out in the First Report, prior to the Appointment Date, Blaneys contacted the Attorney General for Ontario (the "AG"), counsel to the MOHLTC, to advise of the Applicant's intention to seek the appointment of the Receiver. The AG advised that while it did not object to the Applicant's motion, the MOHLTC wished to preserve its right to dispute the terms of the Appointment Order that precluded set off of pre-filing amounts owed to the MOHLTC by Craiglee against post-filing funding to be provided by the MOHLTC to the Receiver.
50. At the hearing held on the Appointment Date, the issue of funding and right of set off was adjourned until May 11, 2009.
51. After the Appointment Date, the Receiver, Blaneys, and representatives of the Applicant met with the AG and the MOHLTC on two occasions to discuss the status of the receivership and the set off issue. At both meetings, and subsequent to those meetings, upon receipt of requests from the AG or the MOHLTC, the Receiver provided to the MOHLTC and the AG certain financial information regarding the operation of the Home.
52. Since the date of the First Report, the Receiver has not had any further discussions with the AG or the MOHLTC regarding the funding and set off issue. The MOHLTC continues to fund Craiglee based on 100% occupancy, without set off relating to the pre-receivership period. The funding to the Receiver will be subject to recoveries by the MOHLTC based on actual occupancy during the receivership period (as outlined in paragraphs 94 through 98 of this Second Report).

53. Prior to the May 11, 2009 appointment, the Receiver and the MOH agreed to further adjourn the hearing of the funding and set off issue until June 16, 2009. Following a Chambers appointment on June 16, 2009, the matter was eventually adjourned to a date to be fixed on consent.

OPERATING RESULTS

54. In the First Report, the Receiver provided financial information for the period May 1, 2009 to April 30, 2010. Attached hereto as **Appendix "E"** is an income statement by envelope for Craiglee for the period January 1, 2010 to December 31, 2010 ("**Fiscal 2010 Period**") which includes a portion of the period previously reported. For the Fiscal 2010 Period, Craiglee generated net operating income of \$335,280 during the Fiscal 2010 Period which is \$1,041,272 below budget. The shortfall from budget was essentially due to i) occupancy that averaged 81% for Fiscal 2010 whereas the budgeted occupancy was 100%, ii) overspending in nursing due to greater nursing needs to deal with the compliance matters at the Home, and iii) management fees exceeding budget by approximately \$130,000 as the budget for management fees was not set properly.
55. Attached hereto as **Appendix "F"** is an income statement by envelope for Craiglee for the period January 1, 2011 to August 31, 2011 (the "**Results Period**"). Craiglee has generated a net operating surplus (before consideration of interest, depreciation and capital expenditures) of \$446,000 over the Results Period which is \$240,756 below budget.
56. The negative variance over the Results Period is essentially due to the following:
- i) Lower occupancy levels during the Results Period as the budgeted average occupancy was 96.17% whereas the actual average occupancy was approximately 93% resulting in a negative revenue variance of approximately \$51,200;

- ii) Accommodation wages expense was approximately \$64,500 over budget as i) the Home required increased housekeeping staff to deal with MOHLTC related matters, and ii) actual vacation pay and holiday pay were both greater than budget;
 - iii) Utilities costs were approximately \$25,200 over budget as the budgeted costs for hydro and water were based on prior year consumption; however, the prior year occupancy averaged approximately 80% whereas the current year-to-date occupancy is approximately 93% resulting in greater usage during the Results Period;
 - iv) Food costs were approximately \$16,300 over budget as the Home had ordered more food than the per diem funding provides for;
 - v) Supplies costs were approximately \$22,900 over budget due to the one time purchase of bed comforters, linens and blankets that were not included in the budget;
 - vi) Repairs and maintenance expense was approximately \$37,300 over budget due to costs to repair a leaking roof and foundation, repairs to the nurse call system and painting of certain areas of the Home all of which were not included in the budget; and
 - vii) Other costs were approximately \$33,900 over budget due substantially to i) legal fees that were approximately \$16,000 greater than budget due to various employee matters requiring mediation during the Results Period, ii) audit fees of \$5,000 had inadvertently been excluded from the budget and, iii) staff training was approximately \$7,000 over budget due to certain workplace harassment training that was not anticipated when the budget was prepared.
57. Extendicare maintains the accounting records of the Home and provides the Receiver with monthly operating reports with comparisons to budget and a variance analysis.

CITY OF TORONTO UTILITY PAYMENT

58. The City of Toronto (the "City") invoices Craiglee on a monthly basis for water usage at the Home. As of the Appointment Date, the pre-receivership water charges outstanding were \$21,307.91 (the "Pre-Receivership Amount"). Attached hereto as **Appendix "G"** is a copy of the Utility Bill for water charges for the period May 19, 2009 to June 17, 2009 which evidences the Pre-Receivership Amount.
59. Each month following the Appointment Date, the City would forward an invoice to Craiglee that included both the Pre-Receivership Amount and charges for the previous month's usage, and each month Craiglee would pay only the charges for the previous month's usage.
60. On or about December 15, 2010, approximately twenty months after the Appointment Date, Craiglee inadvertently paid the City the Pre-Receivership Amount. Attached hereto as **Appendix "H"** is a copy of the Utility Bill for water charges for the period November 17, 2010 to December 17, 2010 which reflects a payment of \$28,326.46 received by the City on December 15, 2010, which amount includes the Pre-Receivership Amount.
61. Upon realizing the error, Craiglee contacted the City to be reimbursed for the Pre-Receivership Amount. However, the City refused to make the reimbursement.
62. Payment of the Pre-Receivership Amount by Craiglee to the City represents an error for which the City seeks to unjustly benefit. The Pre-Receivership Amount represents an unsecured claim, which claim would remain unpaid if not for Craiglee's clerical error.
63. Blaneys has also requested that the City repay the Pre-Receivership Amount, or credit Craiglee's account, but the City has refused to do so. Attached hereto as **Appendix "I"** is a copy of a series of e-mails exchanged between Blaneys and the City's solicitor between April 6, 2011 to June 17, 2011 concerning the request for repayment of the Pre-Receivership Amount.

64. The City's position appears to be that if the Pre-Receivership Amount had not been paid by Craiglee in error, the City would have added it to the tax roll in accordance with the *City of Toronto Municipal Code and City of Toronto Act, 2006*.
65. In addition, in response to an inquiry from counsel for SAC 4, the proposed purchaser of Craiglee (as discussed below), in which SAC 4 requested a water and tax certificate for Craiglee, the City's solicitor advised SAC 4's counsel that if the City is required to refund the Pre-Receivership Amount, it would add the Pre-Receivership Amount to the tax roll. A copy of the correspondence from the City's solicitor to SAC 4's counsel dated June 9, 2011, and Blaneys response to that correspondence dated June 14, 2011, is attached hereto as **Appendix "J"**.
66. Paragraph 11 of the Appointment Order provides for a stay of proceedings against Craiglee and the Receiver, which stay would include adding the Pre-Receivership Amount to the tax roll.
67. The Receiver is seeking this Honourable Court's approval for an order i) requiring the City to reimburse the Receiver for the Pre-Receivership Amount, ii) preventing the City from adding the Pre-Receivership Amount to Craiglee's tax roll, and iii) declaring that Craiglee's liability for pre-receivership water, sewage and/or solid waste charges, including penalties and interest, ranks behind Craiglee's secured creditors.

MARKETING AND SALE PROCESS

68. Following the issuance of the Sale Process Order, and in accordance with that order, the Receiver entered into an Exclusive Listing Agreement dated September 3, 2010 with John A. Jensen Realty Inc. ("**Jensen**") for a six-month period.
69. Jensen's marketing campaign consisted of:
- i) advertising the Home on its website;

- ii) sending marketing information on the Home to its proprietary database of contacts of parties interested in senior's housing opportunities;
 - iii) placing two advertisements in the Globe & Mail newspaper; and
 - iv) advertising the Home on Loop Net, which purports to be the largest and most heavily trafficked commercial online real estate listing service.
70. Jensen has advised the Receiver that it received inquiries about the Home from 82 parties, 42 of which executed confidentiality agreements. Those parties which signed confidentiality agreements were provided with:
- i) a confidential information memorandum prepared by Jensen; and
 - ii) access to a secure website maintained by Jensen which contained financial and other pertinent information about Craiglee.
71. Jensen's marketing program incorporated a sunrise date arrangement whereby no offers were to be entertained until the Home had been marketed for six weeks from the date of the Sale Process Order, which in this case was October 13, 2010, in order to allow ample exposure to the market and suitable time for interested parties to analyse the opportunity prior to submitting any offers for the Home.
72. As part of Jensen's marketing plan, Jensen did not include an asking price with the listing of the Home. The rationale for not including an asking price was that it lessened the risk that a potential purchaser, who would otherwise be willing to pay more than the asking price, would offer less simply because the asking price optically creates a ceiling for offers. Jensen had advised that this methodology is a widely accepted and expected strategy for the sale of seniors housing including facilities being sold in receivership and the lack of an asking price also tended to work well with the sunrise date methodology.
73. On December 6, 2010, the Receiver received an expression of interest in the property through a letter of intent to purchase the property (the "First LOI"). The irrevocable date

for the First LOI was December 9, 2010. It was the Receiver's position that the purchase price contemplated in the First LOI was not sufficient and many of its terms and conditions were not satisfactory to the Receiver. In addition, Jensen advised that it had been contacted by other parties who had indicated that they intended to submit offers for Craiglee. Based on those discussions with Jensen and after consulting Desjardins, the Receiver elected not to respond to the First LOI but to wait to see if further interest in the Home materialized.

74. On December 17, 2010, the Receiver received an offer for the property from Southbridge Investment Partnership No. 1 on behalf of a purchaser to be established ("Southbridge"). The purchase price of the offer from Southbridge and the terms and conditions it was seeking were more acceptable to the Receiver than the First LOI. The irrevocable date of Southbridge's offer was January 14, 2011. In view of that date, the Receiver elected to respond with a counter-offer to Southbridge on January 7, 2011 which reflected a higher purchase price and changes to certain terms and conditions. The Receiver set the irrevocable date for its counter-offer at January 14, 2011.
75. On January 12, 2011, Southbridge responded to the Receiver's counter-offer which the Receiver reviewed and discussed with Jensen. Based on those discussions, on January 14, 2011, the Receiver provided a further counter-offer to Southbridge with an increase in the purchase price, an increase in the amount of the deposit required by the Receiver and certain adjustments to other terms and conditions. The irrevocable date for the Receiver's counter-offer was January 21, 2011.
76. On January 19, 2011, Jensen forwarded to the Receiver an e-mail that Jensen had received from a third interested party which included an indication of the maximum purchase price that the party was willing to pay. As that purchaser's maximum price was lower than that currently being contemplated in the offer from Southbridge, the Receiver elected not to pursue discussions with that party. On January 21, 2011, Southbridge responded to the Receiver's counter-offer that the price was acceptable but it requested certain minor changes to its offer which the Receiver determined to be acceptable.

77. On January 24, 2011, the party to the First LOI contacted Jensen to advise that it intended to submit another offer. Jensen advised the Receiver that the revised purchase price indicated by that party remained significantly below the purchase price being offered by Southbridge. Based on discussions with Jensen and the fact that the Receiver was in possession of an offer with a materially higher purchase price with terms and conditions it found acceptable, the Receiver elected not to delay the process by entering into discussions with the party which submitted the First LOI. Consequently, on January 26, 2011, after discussing the status of the offers with Desjardins, the Receiver advised Jensen that it was accepting the revised offer from Southbridge.
78. The Receiver understands that Southbridge is a Cambridge, Ontario partnership focused on acquiring long-term care facilities across Canada. The principal of Southbridge formerly owned and operated a company that owned and operated a number of long-term care homes in Canada prior to a sale of a substantial portion of its portfolio in 1997. The Receiver understands that Southbridge, through certain limited partnerships, currently operates five long-term care facilities in Ontario. Southbridge is also the selected purchaser for another long-term care home for which Deloitte is receiver and manager under separate receivership proceedings. The purchase of this other home by Southbridge has followed similar timelines to the sale of Craiglee and Desjardins is aware that Southbridge is the proposed purchaser of this other home.
79. Following acceptance of the Southbridge offer, the Receiver and Southbridge negotiated and agreed to the terms of the APS. During those negotiations, Southbridge advised the Receiver that the Purchaser under the APS would be SAC 4. The assets being purchased by SAC 4 include the Home and 9 Vanbrugh. A copy of the APS including amending agreements (as discussed below) are attached hereto as **Appendix "K"**, redacted to maintain confidentiality with respect to the purchase price, pending the closing of the APS. An unredacted copy of the APS will be made available to the Court, subject to a request for a Sealing Order. Capitalized terms found below and not otherwise defined herein have the meanings set out in the APS.

80. The APS initially provided for, amongst other things, a Due Diligence Period of 75 days and a Financing Condition period commensurate with the Due Diligence Period. On June 8, 2011, with the Due Diligence Period set to expire on June 15, 2011, SAC 4 advised the Receiver that it had not yet completed its due diligence nor satisfied its Financing Condition. Accordingly, the Receiver and SAC 4 entered into Amending Agreement No. 1 dated June 8, 2011 which extended the Due Diligence Period to July 15, 2011 and adjusted certain other related dates in the APS.
81. Prior to July 15, 2011, SAC 4 advised the Receiver that it was not in a position to waive the Due Diligence Condition and that it wanted to meet with the Receiver to discuss the results of its due diligence process. Accordingly, the Receiver and SAC 4 entered into Amending Agreement No. 2 dated July 15, 2011 which extended the Due Diligence Period to August 12, 2011 in order to provide sufficient time to arrange a meeting between the parties.
82. On August 9, 2011, a meeting was convened between the Receiver and SAC 4 at which time SAC 4 advised the Receiver that during its due diligence review of Craiglee it had identified a number of issues that in its view necessitated adjustments to the terms and conditions of the APS. The adjustments to the APS that SAC 4 was seeking involved both sale price adjustments and additional conditions in the nature of information flow and operations of Craiglee prior to and after the eventual closing of the transaction.
83. After the August 9, 2011 meeting, the Receiver discussed with Desjardins the adjustments SAC 4 tabled at the meeting. It was agreed that SAC 4 would be advised to prepare a draft amending agreement that contained the revised terms and conditions it was seeking in order that the Receiver could consider and discuss those terms with Desjardins. In order to provide SAC 4 with sufficient time to prepare the draft amending agreement, the Receiver and SAC 4 entered into Amending Agreement No. 3 dated August 12, 2011 which extended the Due Diligence Period to August 19, 2011.
84. On August 18, 2011, SAC 4 provided the Receiver with a draft amending agreement

which contained the revised terms and conditions to the APS that SAC 4 was seeking. In order to provide the Receiver with sufficient time to assess the draft amending agreement and discuss its terms with Desjardins, the Receiver and SAC 4 entered into Amending Agreement No. 4 dated August 19, 2011 which extended the Due Diligence Period to August 31, 2011. The target date of August 31, 2011 did not provide sufficient time for the parties to reach an agreement on the revised terms and conditions to the APS. The Receiver and SAC 4 entered into Amending Agreement No. 5 dated August 31, 2011 which extended the Due Diligence Period to September 8, 2011.

85. By way of Amending Agreement No. 6 dated September 2, 2011, the Receiver and SAC 4 agreed to amend the APS to adjust the purchase price and certain other terms and conditions that were satisfactory to both the Receiver and SAC 4.
86. In March 2010, the Receiver engaged two appraisers with experience in valuing long-term care homes to prepare market value appraisals of the Home. The purchase price under the APS is in line with those market value appraisals. For the reasons outlined in paragraph 91 below, the Receiver has not included copies of the market value appraisals in this Second Report but will have copies available should the Court so request them.
87. One of the terms of Amending Agreement No. 6 provided for the Financing Condition Period to be extended to September 30, 2011. On September 30, 2011, SAC 4 waived the Financing Condition, which represented the final outstanding condition.
88. Paragraph 4.3(a) of the APS provides for the following:

"On or within 45 days following satisfaction or waiver by the Purchaser of the Due Diligence Condition and the Financing Condition, an order will have been made by the Court approving this Agreement and the Transaction and vesting in the Purchaser all the right, title and interest of the Debtor in the Assets free and clear of all liens, security interests and other encumbrances, save and except for the Permitted Encumbrances, such order to be substantially in the form of the order attached hereto as Exhibit A."

Given that SAC 4 waived the Due Diligence Condition on September 2, 2011 and the Financing Condition on September 30, 2011, the Receiver is seeking this Court's approval of the APS through the granting of an approval and vesting order. The approval and vesting order being sought provides that title will only vest with the Purchaser upon the Receiver delivering to the Purchaser a certificate (the "**Receiver's Certificate**") that certifies the following (defined terms are as defined in the Receiver's Certificate):

- i) The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
- ii) The conditions to Closing as set out in section 4 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.

89. Pursuant to the APS, SAC 4 has paid deposits totalling \$400,000 which funds are being held in trust by Blaneys pending completion of the transaction.

90. Should this Honourable Court approve the APS, the Receiver will work with SAC 4 to obtain MOHLTC approval for the transfer of the bed licences to SAC 4 pursuant to the provisions of the LTCHA. Based on discussions with the MOHLTC and the Receiver's experience with the licensing transfer approval process, the process could take in excess of six months to complete before the license transfer is approved.

91. Paragraph 4.3(c) of the APS provides for the following:

"On or before March 30, 2012, the MOH shall have approved the purchase by the Purchaser contemplated under this Agreement and the MOH shall have approved the Purchaser for transfer of the Licence(s) or for issue of licences similar to the Licence(s)."

In view of the Receiver's recent experience concerning the timing for obtaining MOHLTC approval for the transfer of licences, and on the assumption that this Honourable Court approves the APS and directs the Receiver to complete the sale to SAC 4, the Receiver

may be required to enter into a further amending agreement(s) with SAC 4 to extend the date by which the MOHLTC will have approved the purchase by SAC 4 and the issuance of a new licence(s) to SAC 4, from March 30, 2012 to some other date(s) mutually acceptable to the Receiver and SAC 4.

92. To the extent that this Honourable Court does not approve the Receiver completing the APS, or if the APS is approved by the Court but is not completed for other reasons, public disclosure of the contents of the APS, including the purchase price, could materially negatively impact the Receiver's re-marketing of Craiglee. In addition, public disclosure of the market value appraisals commissioned by the Receiver to assist it in assessing offers for the Home could impact any re-marketing of Craiglee. For these reasons, as stated above, the Receiver is seeking an Order of this Honourable Court to seal the unredacted copy of Appendix "K" until the Receiver's Certificate has been filed with this Honourable Court.

INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

93. Attached hereto as **Appendix "L"** is the Receiver's Interim Statement of Receipts and Disbursements for the period April 28, 2009 to October 27, 2011 (the "**Interim R&D**"). The Interim R&D balance of \$2,548,928 reflects transactions through the Receiver's bank account and does not reflect the receipts and disbursements of the operating and payroll accounts managed by Extendicare, which are maintained on an accrual basis and are reflected in the aforementioned income statements by envelope. The Receiver is seeking this Honourable Court's approval of the Interim R&D.
94. The large cash balance reflects the fact that the MOHLTC has funded the Receiver based on 100% occupancy while actual occupancy has averaged approximately 80% in 2009 and 2010, and approximately 93% in year to date 2011. The MOHLTC's policy is to recover the difference between the actual cash advanced and the Home's funding entitlement (based on actual occupancy) through deductions against future funding. Accordingly, the cash on hand will be required to fund Craiglee's operations should future monthly

funding, net of deductions for recoveries relating to prior periods, be insufficient for the Home to operate.

95. On November 30, 2010, the MOHLTC advised the Receiver that the amount to be recovered for the period April 2009 to September 2009 was \$852,184, and that this amount would be deducted from MOHLTC funding over the period November 2010 to October 2011. As of the date of this Second Report, the recovery relating to the April 28, 2009 to September 30, 2009 period has been completed.
96. In January 2011, the MOHLTC advised that the amount of overfunding received by Craiglee for the period January 1, 2010 to September 30, 2010 was \$1,113,210 and that it intends to recover these funds from MOHLTC funding during the period December 2011 through August 2012.
97. As of August 31, 2011, Extendicare estimates the total amount of funds to be reimbursed to the MOHLTC is \$2,210,943, which amount includes the yet to be recovered amount for the period January 2010 to September 2010, as well as anticipated recoveries that the MOHLTC has yet to pursue for the October 1, 2009 to December 31, 2009 period, the October 1, 2010 to December 31, 2010 period and the January 1, 2011 to September 30, 2011 period.
98. The Receiver anticipates that the MOHLTC will shortly advise the Receiver of amounts it intends to recover for the January 1, 2011 to September 30, 2011 period. With respect to potential MOHLTC recoveries relating to the October 1 to December 31 periods referred to in paragraph 97 above, those recoveries are typically identified and requested by the MOHLTC once the MOHLTC conducts its review of Craiglee's Long-Term Care Home Annual Report (the "**Annual Report**") for the year in question. Once an Annual Report is submitted, it can take one year or longer before the MOHLTC reviews the Annual Report and advises the Home of the recoveries related thereto. Craiglee's Annual Reports for 2009 and 2010 were submitted in December 2010 and September 2011, respectively.

STATEMENTS OF ACCOUNT OF THE RECEIVER AND ITS COUNSEL

99. The Receiver's fees for services rendered for the period June 1, 2010 to July 31, 2011 are particularized in the Affidavit of Hartley M. Bricks sworn October 31, 2011 and the invoices attached as exhibits thereto. The total amount of the invoices for this period is \$231,249.77 including GST/HST (the "Receiver's Fees").
100. The fees and disbursements of Blaneys, counsel for the Applicant, in respect of work performed for the Receiver, for the period July 1, 2010 to September 30, 2011 are particularized in the Affidavit of Chad Kopach of Blaneys sworn November 3, 2011 and the invoices attached as exhibits thereto. The total amount of the invoices for this period is \$72,047.93 including HST ("Blaney's Fees").
101. The Receiver has reviewed Blaney's Fees and finds the work performed and charges to be appropriate and reasonable.
102. The Receiver has sought and received the approval of Desjardins prior to taking interim draws against the Receiver's Fees and Blaney's Fees.
103. The Receiver is herein seeking the Court's approval of its activities up to November 2, 2011 and the Receiver's Fees. The Receiver is also seeking the Court's approval of Blaney's Fees.

RECEIVER'S REQUEST TO THE COURT

104. The Receiver is respectfully seeking an order:
 - i) approving the actions and activities of the Receiver up to November 2, 2011;
 - ii) approving the Receiver entering into and completing the APS and the granting of an approval and vesting order;

- iii) sealing the unredacted APS until such time as the APS is completed and the Receiver's Certificate is issued by the Receiver and filed with this Honourable Court;
- iv) directing the City to reimburse to Craiglee the Pre-Receivership Amount and directing the City to not add the Pre-Receivership Amount to the tax roll for Craiglee;
- v) approving the Interim R&D; and
- vi) approving the Receiver's Fees and Blaney's Fees.

All of which is respectfully submitted to this Honourable Court.

DATED this 2nd day of November, 2011.

Deloitte & Touche Inc.

Interim Receiver and Receiver and Manager of
the assets, undertakings and properties of
Craiglee Nursing Home Limited

Deloitte + Touche Inc.

Daniel R. Weisz, CA•CIRP, CIRP
Senior Vice President

Hartley Bricks, MBA, CA•CIRP, CIRP
Vice President

Court File No. CV-09-8156-00-CL

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

BETWEEN:

**DESJARDINS FINANCIAL SECURITY LIFE
ASSURANCE COMPANY**

Applicant

- and -

CRAIGLEE NURSING HOME LIMITED

Respondent

**SUPPLEMENTAL REPORT TO THE SECOND REPORT
TO THE COURT OF THE RECEIVER
(dated November 8, 2011)**

INTRODUCTION

1. Pursuant to an Order of the Honourable Justice Campbell of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated April 28, 2009 (the "**Appointment Order**"), Deloitte & Touche Inc. ("**Deloitte**") was appointed as Interim Receiver and Receiver and Manager (the "**Receiver**") of all of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited ("**Craiglee**").
2. In the Receiver's Second Report to the Court dated November 3, 2011 (the "**Second Report**"), the Receiver set out for this Honourable Court the terms of an Agreement of Purchase and Sale dated April 1, 2011, including amendments thereto (the "**APS**") as between the Receiver and SAC 4 Inc. ("**SAC 4**" or the "**Purchaser**") for the sale of Craiglee and requested the Court's (i) approval for the Receiver to enter into and complete the APS; and (ii) making an approval and vesting order in connection with the transaction.
3. The purpose of this Supplemental Report to the Second Report (the "**Supplemental Report**") is to advise the Court of a further amending agreement to the APS which the Receiver has entered into with SAC 4.
4. Capitalized terms not defined in this Supplemental Report are as defined in the APS, the Second Report and the Appointment Order.

The MOH Closing Adjustment

5. Following service of the Notice of Motion and the Second Report, counsel for the Ministry of Health and Long-Term Care ("**MOHLTC**") corresponded with the Receiver regarding the manner in which over-funding by the MOHLTC of Craiglee from the Appointment Date to the Closing Date, that remained to be recovered by the MOHLTC ("**MOHLTC Recoveries**"), was addressed in the APS. The MOHLTC was concerned that the APS did not explicitly address which party the MOHLTC could pursue for the MOHLTC Recoveries.
6. Section 2.8(c) of the APS provides for an adjustment on Closing for the amount of over-

funding by the Ministry of Health and Long-Term Care ("MOHLTC") of Craiglee from the Appointment Date to the Closing Date that remained to be recovered by the MOHLTC ("MOHLTC Recoveries"). Section 2.8(c) states:

"The Vendor and the Purchaser, each acting reasonably, shall use their best efforts to agree on the estimated amount that may be repayable to or receivable from the MOH in regard to any overpayments/credits for the period prior to the Closing (not including adjustments for monthly amounts paid or payable by the MOH for the month in which the Closing occurs which are adjusted pursuant to Section 2.8(b) hereof) (the "MOH Closing Adjustment") on or before the 10th Business Day before the Closing Date. On Closing, the Purchase Price shall be adjusted by that amount in favour of the Purchaser if the Vendor is in a net payable position with the MOH at Closing or in favour of the Vendor if the Vendor is in a net receivable position with the MOH at Closing. There shall be no further adjustment in regard to the MOH Closing Adjustment after Closing."

7. The purpose of the MOH Closing Adjustment was to transfer to SAC 4 the obligation to remit the MOHLTC Recoveries once the transaction was completed.
8. The APS also included a term that the Purchaser could, on Closing, assume the Service Accountability Agreement (the "SAA") between the Central East Local Health Integration Network (the "LHIN") and Craiglee effective as of July 1, 2010. The SAA is a document which every long-term care home in Ontario must enter into in order to obtain government funding to operate. The SAA governs the terms of funding, including the ability of the MOHLTC (or LHIN) to recover any overpayments made to a nursing home. The SAA was included in Schedule 2 of the APS as an Assumed Contract under the transaction.
9. On September 30, 2011, pursuant to the terms of the APS, SAC 4 advised the Receiver

that it would not be assuming the SAA since SAC 4 intends to enter into a new SAA with the LHIN. While the Receiver is of the view that, should the transaction be completed, the MOH Closing Adjustment and SAC 4's obligation to assume the MOHLTC Recoveries is unaffected by the fact that a new SAA would be entered into between SAC 4 and the LHIN, the MOHLTC has requested that the documents clarify the transfer of the obligation to SAC 4.

10. The Receiver and SAC 4 have agreed to amend the APS to clarify that after Closing, SAC 4 is responsible for remitting the MOHLTC Recoveries.

AMENDING AGREEMENT NO. 7

11. In order to clarify the transfer to SAC 4 of the liability for the MOHLTC Recoveries upon Closing, the Receiver and SAC 4 have entered into Amending Agreement No. 7 dated November 7, 2011. Amending Agreement No. 7 provides that the definition of "Assumed Obligations" in the APS is amended to include the MOHLTC Recoveries. A copy of Amending Agreement No. 7 is attached hereto as Appendix "A".
12. Counsel for the MOHLTC has advised the Receiver that it is satisfied that Amending Agreement No. 7 addresses its concerns regarding the MOHLTC Recoveries.

All of which is respectfully submitted to this Honourable Court.

DATED this 8th day of November, 2011.

Deloitte & Touche Inc.

Interim Receiver and Receiver and Manager of
the assets, undertakings and properties of
Craiglee Nursing Home Limited
and not in its personal capacity

Deloitte + Touche Inc.

Daniel R. Weisz, CA•CIRP, CIRP
Senior Vice President

Hartley Bricks, MBA, CA•CIRP, CIRP
Vice President

TAB E

Court File No. CV- 09-8156-00CL

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

THE HONOURABLE MR.

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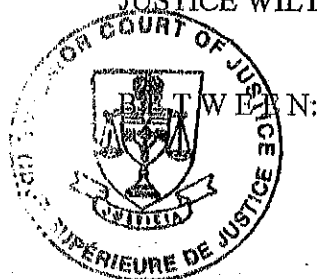
WEDNESDAY, THE 9th DAY

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JUSTICE WILTON-SIEGEL

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OF NOVEMBER, 2011



**DESJARDINS FINANCIAL SECURITY LIFE
ASSURANCE COMPANY**

Applicant

- and -

CRAIGLEE NURSING HOME LIMITED

Respondent

ORDER

THIS MOTION made by **Deloitte & Touche Inc.**, Interim Receiver and Receiver and Manager over all of the current and future assets, undertakings and properties of the Respondent (in that capacity, the "**Receiver**") for an order confirming and approving the actions and activities of the Receiver to the date of the Second Report of the Receiver dated November 2, 2011 (the "**Second Report**"), approving and accepting the Receiver's Interim Statements of Receipts and Disbursements for the period from April 28, 2009 to October 27, 2011, and approving the fees for services rendered by the Receiver for the period from June 1, 2010 to July 31, 2011, and the fees and disbursements of Blaney, McMurtry LLP ("**Blaneys**") for the period from July 1, 2010 to September 30, 2011, was heard this day at Toronto.

ON READING the Receiver's Motion Record dated November 3, 2011, the Second Report, the affidavit of Hartley Bricks sworn October 31, 2011 and the affidavit of Chad Kopach sworn November 3, 2011, and upon hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Sharm Velvet Sowa sworn November 4, 2011,

1. **THIS COURT ORDERS** that the time for service of the Receiver's Notice of Motion returnable November 9, 2011 (the "**NOM**"), and related motion material filed in support of that Notice of Motion (the "**Motion Material**") be and is hereby abridged, that service of the **NOM** and Motion Material is hereby validated, and that further service thereof is hereby dispensed with.
2. **THIS COURT ORDERS** that the fees and disbursements of the Receiver from June 1, 2010 to July 31, 2011, and of Blaneys from July 1, 2010 to September 30, 2011, be and are hereby approved.
3. **THIS COURT ORDERS** that the actions of the Receiver and its counsel up to November 2, 2011, as described in the Receiver's Second Report be and are hereby confirmed and approved.
4. **THIS COURT ORDERS** that the Receiver's Interim Statement of Interim Receipts and Disbursements for the period from April 28, 2009, to October 27, 2011 in respect of Craiglee Nursing Home Limited as set out at Appendix "L" of the Receiver's Second Report, be and is hereby accepted and approved.

5. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and Applicant related to this motion are payable on a full indemnity basis.

G. Han-Jin

ENTERED AT / INSERTE A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

NOV 10 2011

PERMAN:



DESJARDINS FINANCIAL SECURITY LIFE ASSURANCE COMPANY
Applicant

and **CRAIGLEE NURSING HOME LIMITED**
Respondent

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

IN THE MATTER OF AN APPLICATION UNDER SECTION
47(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C.
1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c.
C-43, AS AMENDED

Proceeding Commenced at **TORONTO**

O R D E R

BLANEY McMURTRY LLP
Barristers and Solicitors
2 Queen Street East, Suite 1500
Toronto, ON M5C 3G5

Eric Golden (LSUC #38239M)
Chad Kopach (LSUC #48084G)
(416) 593-3927 (Tel)
(416) 593-5437 (Fax)

Lawyers for the Receiver, Deloitte & Touche Inc. in its
capacity as Interim Receiver and Receiver and Manager of the
current and future assets, undertakings and properties of
Craiglee Nursing Home Limited

TAB F

Court File No. CV-09-8156-00CL

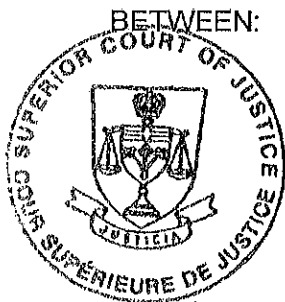
**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE
JUSTICE WILTON-SIEGEL

)
)
)

WEDNESDAY, THE 9TH
DAY OF NOVEMBER, 2011

BETWEEN:



DESJARDINS FINANCIAL SECURITY LIFE
ASSURANCE COMPANY

Applicant

- and -

CRAIGLEE NURSING HOME LIMITED

Respondent

APPROVAL AND VESTING ORDER

THIS MOTION, made by Deloitte & Touche Inc. in its capacity as the Court-appointed interim receiver and receiver and manager (the "**Receiver**") of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited (the "**Debtor**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale, as amended from time to time (the "**APS**") between the Receiver and SAC 4 Inc. made as of April 1, 2011 and appended to the Second Report of the Receiver dated November 2, 2011 (the "**Second Report**"), and vesting in CVH GP Inc., general partner of CVH (No. 1) LP, assignee of SAC 4 Inc., (the "**Purchaser**"), or in whose name SAC 4 Inc. may direct, the Debtor's right, title and interest in and to the assets described in the APS (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Receiver dated November 3, 2011 (the "**Motion Record**"), the Supplementary Motion Record of the Receiver dated November 8, 2011, the Second Report, the Supplemental Report to the Second Report dated November 8, 2011, and on hearing the submissions of counsel for the Receiver, the Purchaser and the City (as defined below), no one appearing for any other person on the service list, although properly served with the Motion Record as appears from the affidavit of Sharm Velvet Sowa sworn November 4, 2011, filed:

1. **THIS COURT ORDERS** that the time for service of the Receiver's Notice of Motion and Supplementary Notice of Motion returnable November 9, 2011 (collectively, the "**NOMs**"), and related motion material filed in support of those NOMs (the "**Motion Material**") be and is hereby abridged, that service of the NOMs and Motion Material is hereby validated, and that further service thereof is hereby dispensed with.

2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and that the APS is commercially reasonable and in the best interests of the Debtor and its stakeholders. The execution of the APS by the Receiver is hereby authorized and approved, and the Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. **THIS COURT ORDERS** that (i) the unredacted copy of the APS including the amendments thereto; and (ii) the appraisal of the Purchased Assets prepared by Carmichael Wilson Property Consultants Ltd. dated March 24, 2010 and the appraisal of the Purchased Assets prepared by Altus Group Limited dated March 30, 2010 (collectively the "**Appraisals**"), shall be treated as confidential and shall be sealed and segregated from the public record, pending the closing of the Transaction contemplated by the APS. When the Receiver delivers the Receiver's Certificate (as defined below), the unredacted copy of the APS and the amendments thereto, as well as a copy of the Appraisals, shall be unsealed.

4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the APS shall vest absolutely in the Purchaser, or in whose name SAC 4 Inc. may direct, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing; (i) any encumbrances or charges created by the Order of the Honourable Justice Campbell dated April 28, 2009; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule C** hereto (all of which are collectively referred to as the "**Encumbrances**"). For greater certainty, this Court orders that all

of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. **THIS COURT ORDERS AND DECLARES** that paragraph 4 above does not apply to permitted encumbrances, easements and restrictive covenants listed on **Schedule D** hereto, and any overpayments made to the Debtor after April 28, 2009, by the Ontario Ministry of Health and Long-Term Care (the "**MOH**"),

6. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Registry Division of Toronto of a Transfer/Deed of Land in the form prescribed by the *Land Registration Reform Act* (Ontario) duly executed by the Receiver, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in **Schedule B** hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

7. **THIS COURT ORDERS** that the City of Toronto (the "**City**") is hereby prohibited from adding to the tax rolls relating to the Real Property any amounts now owing or subsequently determined to be owing by the Debtor on account of water, sewage and/or solid waste charges relating to the Real Property, including penalties and interest, which accrued prior to closing of the Transaction (the "**City Claims**"). Notwithstanding the foregoing, the City is permitted to advance a Claim in respect of the City Claims against the net proceeds from the sale of the Purchased Assets (the "**Net Proceeds**"), and all of the rights of the City to advance the position that the amount of the City Claims stand in priority to all other Claims against the Net Proceeds as if such amounts had been ^{added} to the municipal tax rolls prior to this Approval and Vesting Order are expressly reserved so as to be determined at a later date *Ans*

8. **THIS COURT ORDERS AND DECLARES** that, following the vesting of the Purchased Assets in the Purchaser, the MOH is hereby prohibited from exercising any right of set-off against any and all funds and/or payments to which the Purchaser may be entitled to receive from the MOH under the License (as defined in the APS which comprises a portion of the Purchased Assets) or pursuant to statute, with respect to any overpayments made by the MOH to the Debtor prior to April 28, 2009 (collectively, the "**MOH Overfunding**"). Notwithstanding the foregoing, the MOH is permitted to seek recovery of the Overfunding against the Net Proceeds.

9. **THIS COURT ORDERS** that the Receiver hold in trust from the Net Proceeds an amount sufficient to satisfy the City Claims and the MOH Overfunding as of the date of this Approval

and Vesting Order, until such time as a further Order is made authorizing the release of these trust funds.

10. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the Net Proceeds shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the Net Proceeds 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.

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

12. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Debtor's records pertaining to the Debtor's past and current employees, including personal information of the Assumed Employees, as defined in the APS. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

Bankruptcy and Insolvency Act (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

14. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

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

A. Don H. J.

ENTERED AT / INSOLVENT A TORONTO
ON / BOOK NO.
LE / DANDIS REGISTRATION NO.

NOV 10 2011

REMARK:

DR

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the APS;
2. The conditions to Closing as set out in section 4 of the APS have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.

This Certificate was delivered by the Receiver to the Purchaser at ●<Insert time> on ●<Insert date>.

DELOITTE & TOUCHE INC., solely in its capacity as court appointed interim receiver and receiver and manager of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited and not in its personal capacity

Per: _____

Name: _____

Title: _____

SCHEDULE B**REAL PROPERTY**

In respect of those lands and premises municipally known as 94, 96 & 102 Craiglee Drive, Toronto, Ontario and 10 Shape Street, Toronto, Ontario:

Lots 508, 509, 510, 513, 514, 523 and 524, Plan M-388,
Part of Lot 526, Plan M-388, designated as Part 2, Plan 66R-20226,
Part of Lot 525, Plan M-388, designated as Part 4, Plan 66R-20226,
Part of Lot 512, being the westerly 7 feet 10 inches, Plan M-388,
Lot 511 (except Part 1, Plan 66R-11153), and Part of Lot 512
lying to the east of the northerly 7 feet 10 inches, Plan M-388,
City of Toronto, Land Titles Division of the Toronto Registry Office (No. 66),
being all of PIN 06432-0413(LT).

In, respect of those lands and premises municipally known as 9 Vanbrugh Avenue, Toronto, Ontario:

Part of Lot 526, Plan M-388, designated as Part 1, Plan 66R-20226,
Part of Lot 525, Plan M-388, designated as Part 3, Plan 66R-20226,
City of Toronto, Land Titles Division of the Toronto Registry Office (No. 66),
being all of PIN 06432-0409(LT).

SCHEDULE C

CLAIMS

I. CLAIMS TO BE DELETED AND EXPUNGED FROM TITLE TO REAL PROPERTY

(as of November 1, 2011)

A. In respect of those lands and promises municipally known as 94, 96 & 102 Craiglee Drive, Toronto, Ontario and 10 Sharpe Street, Toronto, Ontario:

1. Instrument No. AT391092 registered January 22, 2004, being a Charge/Mortgage to and in favour of First National Financial Corporation ("**First National**") securing the original principal sum of \$11,781,565.00 ("**First National Charge**").
2. Instrument No. AT391093 registered January 22, 2004, being a Notice of Assignment of Rents - General relating to the First National Charge.
3. Instrument No. AT391094 registered January 22, 2004, being a Notice of Assignment of Material Contracts and Agreements relating to the First National Charge.
4. Instrument No. AT391095 registered January 22, 2004, being a Notice of Security Interest relating to the First National Charge.
5. Instrument No. AT1017117 registered December 21, 2005, being a Transfer of the First National Charge to Desjardins Financial Security Life Assurance Company (the "Transfer of the First National Charge").
6. Instrument No. AT1017118 registered December 21, 2005, being a Notice of Assignment of Rents - General relating to the Transfer of the First National Charge.
7. Instrument No. AT1017119 registered December 21, 2005, being a Notice of Assignment of Material Contracts and Agreements relating to the Transfer of the First National Charge.
8. Instrument No. AT1017120 registered December 21, 2005, being a Notice of Security Interest relating to the Transfer of the First National Charge.
9. Instrument no. AT1019710 registered December 23, 2005, being a Notice of an Agreement Amending the First National Charge.
10. Instrument No. AT2025023 registered March 6, 2009, being a Charge/Mortgage to and in favour of Extendicare (Canada) Inc. securing the original principal sum of \$350,000.00.

B. In respect of those lands and premises municipally known as 9 Vanbrugh Avenue, Toronto, Ontario:

11. Instrument No. AT1889172 registered August 8, 2008, being a Charge/Mortgage to and in favour of Scotia Mortgage Corporation securing the original principal sum of \$126,000.00.

12. Instrument No. A12015651 registered February 20, 2009, being a Charge/Mortgage to and in favour of Desjardins Financial Security Life Assurance Company securing the original principal sum of \$11,781,565.00 (the "Desjardins Charge").
13. Instrument No. AT2015651 registered February 20, 2009, being a Notice of Assignment of Rents - General relating to the Desjardins Charge.
14. Instrument No. AT2025023 registered March 6, 2009, being a Charge/Mortgage to and in favour of Extendicare (Canada) Inc. securing the original principal sum of \$350,000.00.

II. CLAIMS TO BE DISCHARGED RE PERSONAL PROPERTY

(as of November 1, 2011)

File #	Creation Date	Expiry Date	Period	
079210305	6 Oct 1995	6 Oct 2028	30 years	
Reg. Type	Secured Party(ies)	Debtor(s)	Registration#	Coll. Classif.
PPSA	THE EQUITABLE TRUST COMPANY	CRAIGLEE NURSING HOME LIMITED	19951006 1449 0043 6475	I E A O MV
Partial Assignment	DESJARDINS FINANCIAL SECURITY LIFE ASSURANCE COMPANY (Assignee) (Assignee)		20051223 1129 1862 2606	
File #	Creation Date	Expiry Date	Period	
612974196	28 Feb 2005	28 Feb 2015	10 years	
Reg. Type	Secured Party(ies)	Debtor(s)	Registration#	Coll. Classif.
PPSA	HER MAJESTY THE QUEEN AS REPRESENTED BY MOF (RST/EHT/CT)	CRAIGLEE NURSING HOME LIMITED	20050228 1039 1031 9160	I E A O
File #	Creation Date	Expiry Date	Period	
646034499	12 Jun 2008	12 Jun 2014	6 years	
Reg. Type	Secured Party(ies)	Debtor(s)	Registration#	Coll. Classif.
PPSA	THE CONSUMERS' WATERHEATER FUND	CRAIGLEE NURSING HOMES	20080612 1403 1462 9218	E
	General Collateral	HVAC EQUIPMENT LOCATED AT 102 CRAIGLEE DR., TORONTO, ONTARIO, M1N 2M7		

File#	Creation Date	Expiry Date	Term					
662903866	22 Apr 2009	22 Apr 2019	10 years					
Reg Type	Secured Party (ies)	Debtor(s)	Registration#	Coll Classif				
PPSA	DESJARDINS FINANCIAL SECURITY LIFE ASSURANCE COMPANY	CRAIGLEE NURSING HOME LIMITED	20090422 1526 1862 5473			E	A	O
	DESJARDINS FINANCIAL SECURITY LIFE ASSURANCE COMPANY							

SCHEDULE D**PERMITTED ENCUMBRANCES, EASEMENTS AND RESTRICTIVE COVENANTS****RELATED TO THE REAL PROPERTY**

(unaffected by the Vesting Order)

In respect of those lands and premises municipally known as 94,96 & 102 Craiglee Drive, Toronto, Ontario and 10 Sharpe Street, Toronto, Ontario:

1. Instrument No. A256117 registered December 3, 1968, being a By-Law of the Corporation of the Borough of Scarborough (the "**Borough**") (now forming part of the City of Toronto).
2. Instrument No. A375207 registered November 30, 1972, being an agreement in favour of the Borough.
3. Instrument No. A853871 registered May 27, 1980, being an agreement in favour of the Borough.
4. Instrument No. E603543 registered September 20, 2002, being an agreement in favour of the City of Toronto (the "**City**").
5. Instrument No. AT118898 registered March 11, 2003, being an Application to Consolidate Parcels.
6. Instrument No. AT118899 registered March 11, 2003, being an Application to Consolidate Parcels.
7. Instrument No. AT1014167 registered December 19, 2005, being an Application to Consolidate Parcels.

In respect of those lands and premises municipally known as 9 Vanbrugh Avenue, Toronto, Ontario (as of February 24, 2011):

1. Instrument No. A256117 registered December 3, 1968, being a By-Law of the Corporation of the Borough of Scarborough (now forming part of the City of Toronto).
2. Instrument No. AT118898 registered March 11, 2003, being an Application to Consolidate Parcels.

RELATED TO PERSONAL PROPERTY

(unaffected by the Vesting Order)

File #	Creation Date	Expiry Date	Period	
668952486	8 Apr 2011	8 Apr 2014	3 years	
Reg Type	Secured Party(ies)	Debtor(s)	Registration #	Coll Classif
PPSA	ENERCARE SOLUTIONS LIMITED PARTNERSHIP	CRAIGLEE NURSING HOME LTD	20110408 1403 1462 4404	E O
General Collateral	DOMESTIC BOILER AND 2 STORAGE TANKS LOCATED AT 102 CRAIGLEE DR. TORONTO ON M1N2M7			
File #	Creation Date	Expiry Date	Period	
668952612	8 Apr 2011	8 Apr 2014	3 years	
Reg Type	Secured Party(ies)	Debtor(s)	Registration #	Coll Classif
PPSA	ENERCARE SOLUTIONS LIMITED PARTNERSHIP	CRAIGLEE NURSING HOME LTD.	20110408 1403 1462 4417	E O
General Collateral	HEATING BOILER LOCATED AT 102 CRAIGLEE DR. TORONTO M1N2M7			
File #	Creation Date	Expiry Date	Period	
670337232	2 June 2011	2 June 2014	3 years	
Reg Type	Secured Party(ies)	Debtor(s)	Registration #	Coll Classif
PPSA	ENERCARE SOLUTIONS LIMITED PARTNERSHIP	CRAIGLEE NURSING HOMES	20110602 1704 1462 8586	E O
General Collateral	DOMESTIC BOILER LOCATED AT 102 CRAIGLEE DR. TORONTO M1N2M7			

DESJARDINS FINANCIAL SECURITY LIFE ASSURANCE COMPANY
Applicant

and

CRAIGLEE NURSING HOME LIMITED
Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]

IN THE MATTER OF AN APPLICATION UNDER SECTION
47(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C.
1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE
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C-43, AS AMENDED

Proceeding Commenced at **TORONTO**

APPROVAL AND VESTING ORDER

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Chad Kopach (LSUC #48084G)
(416) 593-3927 (Tel)
(416) 593-5437 (Fax)

Lawyers for the Receiver, Deloitte & Touche Inc. in its
capacity as Interim Receiver and Receiver and Manager of the
current and future assets, undertakings and properties of
Craiglee Nursing Home Limited

TAB G

AMENDING AGREEMENT NO. 9

THIS AMENDING AGREEMENT is dated as of March 30, 2012

BETWEEN:

DELOITTE & TOUCHE INC., solely in its capacity as court-appointed interim receiver and receiver and manager of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited and not in its personal capacity

(the "Vendor")

- and -

CVH (NO. 1) LP by its general partner **CVH GP INC.**, a corporation existing under the laws of Ontario

(the "Purchaser")

- and -

SAC 4 INC., a corporation existing under the laws of Ontario

CONTEXT:

- A. The parties have made an Agreement of Purchase and Sale of the Assets dated April 1, 2011 as amended by agreements dated June 8, 2011, July 15, 2011, August 12, 2011, August 19, 2011, August 31, 2011, September 2, 2011, November 7, 2011 and November 17, 2011 ("Purchase Agreement").
- B. By Assignment dated November 14th, 2011 and in accordance with section 6.12 of the Purchase Agreement, SAC 4 INC. assigned all its right, title and interest in the Purchase Agreement to CVH (No. 1) LP by its general partner CVH GP Inc.
- C. The parties wish to further amend the Purchase Agreement as set out below.
- D. The words and phrases beginning with capitals have the meanings assigned in the Purchase Agreement unless the context otherwise requires and as noted in section 1 below.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

- 1. Section 4.3(c) of the Purchase Agreement is amended by deleting "March 30, 2012", and replacing it with "May 31, 2012".
- 2. Section 1.1 definition of "Closing Date" is amended by deleting "May 15, 2012" in the last line and replacing it with "July 15, 2012".

9

3. Except as specifically amended herein, the Purchase Agreement continues in full force and effect.
4. This Agreement may be executed by the parties in counterparts and delivered by way of pdf email transmission or facsimile, with such counterparts together and such delivery being deemed originals.

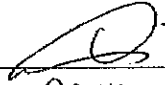
Each of the parties has executed and delivered this Agreement, as of the date noted at the beginning of the Agreement.

DELOITTE & TOUCHE INC., solely in its capacity as court-appointed interim receiver and receiver and manager of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited and not in its personal capacity

Per

Name:

Title:


DANICE WEITZ

SENIOR VICE PRESIDENT

CVH (NO. 1) LP

by its general partner

CVH GP INC.


Per

Name: Michael Petersen

Title: President

SAC 4 INC.

Per


Name: Robert Yoanidis

Title: Vice-President

AMENDING AGREEMENT NO. 10

THIS AMENDING AGREEMENT is dated as of April 25, 2012

BETWEEN:

DELOITTE & TOUCHE INC., solely in its capacity as court-appointed interim receiver and receiver and manager of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited and not in its personal capacity

(the "Vendor")

- and -

CVH (NO. 1) LP by its general partner **CVH GP INC.**, a corporation existing under the laws of Ontario

(the "Purchaser")

- and -

SAC 4 INC., a corporation existing under the laws of Ontario

CONTEXT:

A. The parties have made an Agreement of Purchase and Sale of the Assets dated April 1, 2011 as amended by agreements dated June 8, 2011, July 15, 2011, August 12, 2011, August 19, 2011, August 31, 2011, September 2, 2011, November 7, 2011, November 17, 2011 and March 30, 2012 ("Purchase Agreement").

B. By Assignment dated November 14th, 2011 and in accordance with section 6.12 of the Purchase Agreement, SAC 4 Inc. assigned all its right, title and interest in the Purchase Agreement to CVH (No. 1) LP by its general partner CVH GP Inc.

C. The parties wish to further amend the Purchase Agreement as set out below.

D. The words and phrases beginning with capitals have the meanings assigned in the Purchase Agreement unless the context otherwise requires and as noted in section 1 below.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Section 4.3(c) of the Purchase Agreement is amended by deleting "May 31, 2012", and replacing it with "July 31, 2012".
2. Section 1.1 definition of "Closing Date" is amended by deleting "July 15, 2012" in the last line and replacing it with "September 15, 2012".

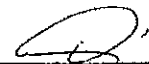
- 2 -

3. Except as specifically amended herein, the Purchase Agreement continues in full force and effect.
4. This Agreement may be executed by the parties in counterparts and delivered by way of pdf email transmission or facsimile, with such counterparts together and such delivery being deemed originals.

Each of the parties has executed and delivered this Agreement, as of the date noted at the beginning of the Agreement.

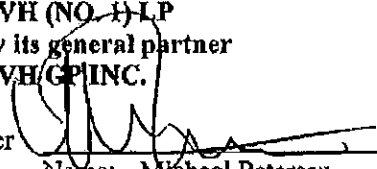
DELOITTE & TOUCHE INC., solely in its capacity as court-appointed interim receiver and receiver and manager of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited and not in its personal capacity

Per


Name: DANIEL WALSH
Title: SENIOR VICE PRESIDENT

CVH (NO. 1) LP
by its general partner
CVH GP INC.

Per


Name: Michael Petersen
Title: President

SAC 4 INC.

Per


Name: Robert Yoanidis
Title: Vice-President

AMENDING AGREEMENT NO. 11

THIS AMENDING AGREEMENT is dated as of July 25, 2012

B E T W E E N :

DELOITTE & TOUCHE INC., solely in its capacity as court-appointed interim receiver and receiver and manager of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited and not in its personal capacity

(the "Vendor")

- and -

CVH (NO. 1) LP by its general partner **CVH GP INC.**, a corporation existing under the laws of Ontario

(the "Purchaser")

- and -

SAC 4 INC., a corporation existing under the laws of Ontario

CONTEXT:

A. The parties have made an Agreement of Purchase and Sale of the Assets dated April 1, 2011 as amended by agreements dated June 8, 2011, July 15, 2011, August 12, 2011, August 19, 2011, August 31, 2011, September 2, 2011, November 7, 2011, November 17, 2011, March 30, 2012 and April 25, 2012 ("**Purchase Agreement**").

B. By Assignment dated November 14th, 2011 and in accordance with section 6.12 of the Purchase Agreement, SAC 4 Inc. assigned all its right, title and interest in the Purchase Agreement to CVH (No. 1) LP by its general partner CVH GP Inc.

C. The parties wish to further amend the Purchase Agreement as set out below.

D. The words and phrases beginning with capitals have the meanings assigned in the Purchase Agreement unless the context otherwise requires and as noted in section 1 below.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Section 4.3(c) of the Purchase Agreement is amended by deleting "July 31, 2012", and replacing it with "October 1, 2012".
2. Section 1.1 definition of "Closing Date" is amended by deleting "September 15, 2012" in the last line and replacing it with "November 1, 2012".

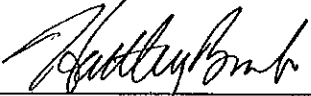
- 2 -

3. Except as specifically amended herein, the Purchase Agreement continues in full force and effect.
4. This Agreement may be executed by the parties in counterparts and delivered by way of pdf email transmission or facsimile, with such counterparts together and such delivery being deemed originals.

Each of the parties has executed and delivered this Agreement, as of the date noted at the beginning of the Agreement.

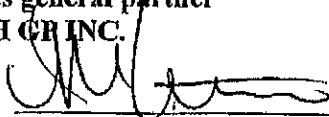
DELOITTE & TOUCHE INC., solely in its capacity as court-appointed interim receiver and receiver and manager of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited and not in its personal capacity

Per


Name: HARTLEY BRICKS
Title: VICE PRESIDENT

CVH (NO. 1) LP
by its general partner
CVH GP INC.

Per


Name: Michael Petersen
Title: President

SAC 4 INC.

Per


Name: Robert Ioanidis
Title: Vice-President

AMENDING AGREEMENT NO. 12

THIS AMENDING AGREEMENT is dated as of October 1, 2012

BETWEEN:

DELOITTE & TOUCHE INC., solely in its capacity as court-appointed interim receiver and receiver and manager of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited and not in its personal capacity

(the "Vendor")

- and -

CVH (NO. 1) LP by its general partner **CVH GP INC.**, a corporation existing under the laws of Ontario

(the "Purchaser")

- and -

SAC 4 INC., a corporation existing under the laws of Ontario

CONTEXT:

A. The parties have made an Agreement of Purchase and Sale of the Assets dated April 1, 2011 as amended by agreements dated June 8, 2011, July 15, 2011, August 12, 2011, August 19, 2011, August 31, 2011, September 2, 2011, November 7, 2011, November 17, 2011, March 30, 2012, April 25, 2012 and July 25, 2012 ("Purchase Agreement").

B. By Assignment dated November 14th, 2011 and in accordance with section 6.12 of the Purchase Agreement, all ~~its~~ right, title and interest in the Purchase Agreement was assigned to CVH (No. 1) LP by its general partner CVH GP Inc.

C. The parties wish to further amend the Purchase Agreement as set out below.

D. The words and phrases beginning with capitals have the meanings assigned in the Purchase Agreement unless the context otherwise requires and as noted in section 1 below.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Section 4.3(c) of the Purchase Agreement is amended by deleting "October 1, 2012", and replacing it with "October 26, 2012".


- 2 -

2. Section 1.1 definition of "Closing Date" is amended by deleting "November 1, 2012" in the last line and replacing it with "November 30, 2012".
3. Except as specifically amended herein, the Purchase Agreement continues in full force and effect.
4. This Agreement may be executed by the parties in counterparts and delivered by way of pdf email transmission or facsimile, with such counterparts together and such delivery being deemed originals.

Each of the parties has executed and delivered this Agreement, as of the date noted at the beginning of the Agreement.

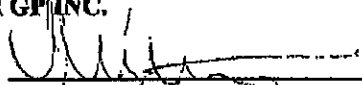
DELOITTE & TOUCHE INC., solely in its capacity as court-appointed interim receiver and receiver and manager of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited and not in its personal capacity

Per


Name: DANIEL WEISS
Title: SENIOR VICE PRESIDENT

CVH (NO. 1) LP
by its general partner
CVH GP INC.

Per


Name: Michael Petersen
Title: President

SAC 4 INC.

Per


Name: Robert Yoanidis
Title: Vice-President

AMENDING AGREEMENT NO. 13

THIS AMENDING AGREEMENT is dated as of October 26, 2012

B E T W E E N :

DELOITTE & TOUCHE INC., solely in its capacity as court-appointed interim receiver and receiver and manager of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited and not in its personal capacity

(the "Vendor")

- and -

CVH (NO. 1) LP by its general partner **CVH GP INC.**, a corporation existing under the laws of Ontario

(the "Purchaser")

- and -

SAC 4 INC., a corporation existing under the laws of Ontario

CONTEXT:

A. The parties have made an Agreement of Purchase and Sale of the Assets dated April 1, 2011 as amended by agreements dated June 8, 2011, July 15, 2011, August 12, 2011, August 19, 2011, August 31, 2011, September 2, 2011, November 7, 2011, November 17, 2011, March 30, 2012, April 25, 2012, July 25, 2012 and October 1, 2012 ("Purchase Agreement").

B. By Assignment dated November 14th, 2011 and in accordance with section 6.12 of the Purchase Agreement, all ~~its~~ right, title and interest in the Purchase Agreement was assigned to CVH (No. 1) LP by its general partner CVH GP Inc.

C. The parties wish to further amend the Purchase Agreement as set out below.

D. The words and phrases beginning with capitals have the meanings assigned in the Purchase Agreement unless the context otherwise requires and as noted in section 1 below.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Section 4.3(c) of the Purchase Agreement is amended by deleting "October 26, 2012", and replacing it with "November 9, 2012".

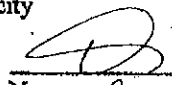
- 2 -

2. Except as specifically amended herein, the Purchase Agreement continues in full force and effect.
3. This Agreement may be executed by the parties in counterparts and delivered by way of pdf email transmission or facsimile, with such counterparts together and such delivery being deemed originals.

Each of the parties has executed and delivered this Agreement, as of the date noted at the beginning of the Agreement.


DELOITTE & TOUCHE INC., solely in its capacity as court-appointed interim receiver and receiver and manager of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited and not in its personal capacity

Per


Name: DANIEL WEISS
Title: SENIOR VICE PRESIDENT

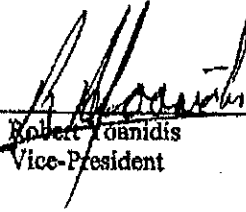
CVH (NO. 1) LP
by its general partner
CVH GR INC.

Per


Name: Michael Petersen
Title: President

SAC 4 INC.

Per


Name: Robert Ioanidis
Title: Vice-President

TAB H

AMENDING AGREEMENT NO. 14

THIS AMENDING AGREEMENT with an effective date as of November 13, 2012,

BETWEEN :

DELOITTE & TOUCHE INC., solely in its capacity as court-appointed interim receiver and receiver and manager of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited and not in its personal capacity

(the "Vendor")

- and -

CVH (NO. 1) LP

(the "Purchaser")

- and -

SAC 4 INC., a corporation existing under the laws of Ontario

CONTEXT:

A. The parties have made an Agreement of Purchase and Sale of the Assets dated April 1, 2011 as amended by agreements dated May 24, 2011, July 15, 2011, August 12, 2011, August 19, 2011, August 31, 2011, September 2, 2011, November 7, 2011, November 17, 2011, February 29, 2012, April 25, 2012, July 25, 2012, October 1, 2012 and October 26, 2012 ("Purchase Agreement").

B. By Assignment dated November 14th, 2011 and in accordance with section 6.12 of the Purchase Agreement, all right, title and interest in the Purchase Agreement was assigned to CVH (No. 1) LP by its general partner CVH GP Inc.

C. The parties wish to further amend the Purchase Agreement as set out below.

D. The words and phrases beginning with capitals have the meanings assigned in the Purchase Agreement unless the context otherwise requires.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Section 2.8(c) is amended by deleting the section in full and substituting therefor

A. "The Vendor and the Purchaser, each acting reasonably, shall use their best efforts to agree on the estimated amount that may be repayable to or receivable from the

Ministry of Health and Long-Term Care and/or the Local Health Integration Network (together for purposes of this section 2.8(c) as amended the "MOH") in regard to any overpayments/credits for the period up to September 30, 2012 on or before the Closing Date. On Closing, the Purchase Price shall be adjusted by that amount in favour of the Purchaser if the Vendor is in a net payable position with the MOH as of September 30, 2012 or in favour of the Vendor if the Vendor is in a net receivable position with the MOH as of September 30, 2012 (the "Preliminary MOH Closing Adjustment").

- B. Within thirty (30) days of the Closing (i) the Vendor and the Purchaser, each acting reasonably, shall use their best efforts to agree on the estimated amount that may be repayable to or receivable from the MOH in regard to any overpayments/credits for the period from October 1, 2012 to the Closing Date, and (ii) the Purchase Price shall be further adjusted, pursuant to an undertaking to readjust, by that amount in favour of the Purchaser if the Vendor is in a net payable position with the MOH for the period between October 1, 2012 and the Closing Date or in favour of the Vendor if the Vendor is in a net receivable position with the MOH for the period between October 1, 2012 and the Closing Date (such further adjustment together with the Preliminary MOH Closing Adjustment is hereinafter called the "MOH Closing Adjustment"). The Vendor and Purchaser each agree to pay to the other any amounts owing by them in respect of the MOH Closing Adjustment within three (3) Business Days of the determination of the MOH Closing Adjustment.
- C. The Vendor and the Purchaser have agreed that \$150,000 of the Purchase Price payable by the Purchaser to the Vendor upon the closing of the transaction contemplated by the Purchase Agreement (the "Escrow Fund") is to be held in escrow to cover amounts that may be repayable to the MOH (including amounts that pertain to high intensity needs receivables, lab cost receivables, recoveries of bad debts and in regard to any overpayments) (the "MOH Final Adjustments") for the period January 1, 2011 to the Closing Date (the "MOH Final Adjustment Period"). On Closing, the Escrow Fund shall be deposited with Gowling Lafleur Henderson LLP (the "Escrow Agent") to be held and administered on the terms of an escrow agreement (the "Escrow Agreement") substantially in the form attached as Appendix A to this Amending Agreement No. 14. For greater certainty, other than the MOH Closing Adjustment and the MOH Final Adjustments payable to the Purchaser or the Vendor pursuant to this Amending Agreement No. 14, there shall be no further adjustment in the amount of the MOH Closing Adjustment after Closing and no adjustment for any MOH recoveries attributable to the period after the Closing Date.
- D. The Vendor shall be responsible to maintain and keep the Books and Records until the Closing Date. The Vendor and the Purchaser shall cooperate to complete, approve and submit all filings to the MOH for the period from January 1, 2012 to December 31, 2012 in regard to any amounts that may be repayable to or receivable from the MOH. For greater certainty, the Purchaser shall be primarily responsible for preparation of that portion of the filings from the

Closing Date to December 31, 2012 and the Vendor shall be primarily responsible for preparation of that portion of the filings from January 1, 2012 to the Closing Date. The Purchaser shall be solely responsible for all filings beginning January 1, 2013. Each of the Vendor and the Purchaser agree that they shall provide to each other their complete draft filings on or before March 31, 2013. If a party fails to provide its complete draft filing to the other party within the required time frame the non-defaulting party may complete the portion required and file the return with the MOH and the defaulting party shall pay all reasonable costs incurred by the non-defaulting party in connection with the preparation and filing of the return within ten (10) Business Days of it receiving an invoice for such preparation costs from the non-defaulting party.

E. The Vendor and Purchaser agree to provide a joint written instruction to the Escrow Agent to release funds from Escrow as follows:

- (i) on receipt of a monthly Long-Term Care Home Payment Calculation Notice, quarterly lab cost reimbursement notice or quarterly high intensity need reimbursement notice ("MOH Payment Notices") from the MOH relating to the MOH Final Adjustment Period indicating that any amount(s) (including amounts that pertain to high intensity needs receivables, lab cost receivables, recoveries of bad debts and in regard to any overpayments) will be recovered or withheld from any scheduled monthly payment to the Purchaser or will not be properly reimbursed to the Purchaser, the Purchaser shall provide a copy thereof to the Vendor and the Escrow Agent. To the extent that such item has not otherwise been fully adjusted for between the Purchaser and Vendor in the MOH Closing Adjustment, the Escrow Agent shall be directed to release an amount equal to (A) the full amount to be recovered or withheld or not properly reimbursed by the MOH as indicated in the MOH Payment Notice if no adjustment was made in the MOH Closing Adjustment in respect of such amount, or (B) the difference between the amount to be recovered or withheld or not properly reimbursed by the MOH as indicated in the MOH Payment Notice and the amount that was adjusted for in the MOH Closing Adjustment if a partial adjustment was made in the MOH Closing Adjustment in respect of such amount, to the Purchaser within three (3) Business Days of the Escrow Agent's receipt of the joint written instruction; and
- (ii) on receipt of correspondence from the MOH that confirms that the reconciliations for all periods in the MOH Final Adjustment Period are finalized or closed and that no further amounts are owing for regular payments, high intensity needs or lab costs (with the parties agreeing that such correspondence may include other phrases or terminology with similar meaning which will be sufficient for the purposes of this section, provided that such other phrases or terminology are satisfactory to both parties hereto, each acting reasonably), provided that no disputes of an MOH Payment Notice are ongoing pursuant to Section 2.8(c)(E) hereof,

the Escrow Agent shall be directed to release the balance of the Escrow Fund, if any, to the Vendor less any amounts not yet paid by the Escrow Agent to the Purchaser in respect of MOH Payment Notices received prior to such date.

- F. On receipt of a MOH Payment Notice that indicates that any amount(s) will be credited to the Purchaser on account of a matter relating to the MOH Final Adjustment Period which has not otherwise been fully adjusted for between the Purchaser and Vendor in the MOH Closing Adjustment, the Purchaser shall promptly provide a copy thereof to the Vendor and within 3 Business Days, following issuance of the credit by the MOH, issue a cheque to the Vendor in an amount equal to (A) the full amount credited to the Purchaser by the MOH as indicated in the MOH Payment Notice if no adjustment was made in the MOH Closing Adjustment in respect of such amount, or (B) the difference between the amount to be credited to the Purchaser in the MOH Payment Notice and the amount that was previously adjusted for in the MOH Closing Adjustment if a partial adjustment was made in the MOH Closing Adjustment in respect of such amount. The Purchaser's obligation to remit additional credits it receives to the Vendor will terminate on the release of all of the Escrow Funds by the Escrow Agent except for any credits owing but not yet paid by the Purchaser to the Vendor pursuant to MOH Payment Notices received by the Purchaser prior to such date.
- G. The release of funds from the Escrow Fund upon receipt of the MOH Payment Notices in accordance with the provisions above will occur notwithstanding that the amount to be recovered or otherwise adjusted by the MOH may be subject to further adjustment, consideration, appeal or dispute. Any dispute of a MOH Payment Notice must be made within the time frame provided for in the MOH Payment Notice, or if no such period is identified in the MOH Payment Notice, then within the time period permitted by the MOH to file a dispute.
- H. The Purchaser agrees:
 - (i) to provide to the Vendor, within 3 Business Days after receipt from the MOH, copies of all MOH Payment Notices, information requests, and any other letters, disallowances or other notices and/or communications from the MOH regarding recoveries, credits or other adjustments relating to the MOH Final Adjustment Period;
 - (ii) to provide to the Vendor on Closing a letter addressed to the MOH substantially in the form attached hereto as Schedule "2.8(c)" authorizing (A) the MOH to release to the Vendor all information including, without limitation, all MOH Payment Notices, information requests, and any other letters, disallowances or other notices and/or communications, relating to the MOH Final Adjustment Period, and (B) the Vendor to respond directly to the MOH in connection with all MOH Monthly Payment Notices, information requests, letters, disallowances or other notices and/or communications relating to the MOH Final Adjustment Period, in each

- 5 -

case provided that all correspondence and documentation provided to or delivered by the Vendor in accordance with such letter is copied to the Purchaser; and

- (iii) to provide to the Vendor and Diversicare access to the books and records received from the Vendor in connection with the Closing for purposes of (A) preparing all filings to the MOH for January 1, 2012 to the Closing Date; and (B) to review or dispute any MOH Payment Notice relating to the MOH Final Adjustment Period.

- 2. Section 2.8(g) is amended by deleting part (i) and substituting therefor

“Should there be any dispute concerning the calculation of the Employee Liabilities Adjustment and/or the Owned Real Property adjustments that remain unresolved at Closing, the Purchaser and the Vendor shall cooperate in good faith to resolve any such dispute as promptly as possible. If the Purchaser and the Vendor are unable to resolve any dispute regarding calculation of the Employee Liabilities Adjustment and/or the Owned Real Property adjustments within thirty (30) days of Closing or such longer period as the Purchaser and the Vendor shall mutually agree in writing, the Vendor and the Purchaser shall engage a mutually agreeable independent accounting firm (the “Arbitrator”) to resolve all issues bearing on such dispute and to determine finally the Employee Liabilities Adjustment and/or the Owned Real Property adjustments as of the Closing Date. The parties agree that such resolution and determination shall be final and binding on the Vendor and the Purchaser.”

- 3. By executing this Agreement, the Purchaser hereby acknowledges and agrees that Section 4.1(c) of the Purchase Agreement has been satisfied.
- 4. Except as specifically amended herein, the Purchase Agreement continues in full force and effect.
- 5. This Agreement may be executed by the parties in counterparts, with the executed counterparts delivered by each party together constituting this Amending Agreement.

THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.

DELOITTE & TOUCHE INC., solely in its capacity as court-appointed interim receiver and receiver and manager of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited and not in its personal capacity

Per 

Name: Daniel Weisz

Title: Senior Vice President

CVH (NO. 1) LP by its managing general partner CVH GP INC. SAC 4 INC.

Per _____

Name: Michael Petersen

Title: President

Per _____

Name: Robert Yoanidis

Title: Vice-President

gowlings

ESCROW AGREEMENT

BETWEEN

CVH (NO. 1) LP

— and —

**DELOITTE & TOUCHE INC.,
SOLELY IN ITS CAPACITY AS COURT-APPOINTED INTERIM RECEIVER
AND RECEIVER AND MANAGER OF THE CURRENT AND FUTURE ASSETS,
UNDERTAKINGS AND PROPERTIES OF CRAIGLEE NURSING HOME LIMITED
AND NOT IN ITS PERSONAL CAPACITY**

— and —

**GOWLING LAFLEUR HENDERSON LLP,
a Limited Liability Partnership with an office at
1 First Canadian Place, 100 King Street West, Suite 1600,
Toronto, Ontario M5X 1G5, Canada**

ESCROW AGREEMENT

THIS AGREEMENT dated as of the Closing Date (as defined in the Purchase Agreement as defined below),

B E T W E E N

CVH (NO. 1) LP

(the "**Purchaser**")

- and -

DELOITTE & TOUCHE INC., solely in its capacity as court-appointed interim receiver and receiver and manager of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited and not in its personal capacity

(the "**Vendor**")

(and the Purchaser and Vendor together the "**Parties**")

- and -

GOWLING LAFLEUR HENDERSON LLP, a Limited Liability Partnership with an office at 1 First Canadian Place, 100 King Street West, Suite 1600, Toronto, Ontario M5X 1G5, Canada

(the "**Escrow Agent**").

CONTEXT:

- A. By an agreement of purchase and sale dated April 1, 2011, made between the Vendor and SAC 4 Inc., as amended (the "**Purchase Agreement**"), the Vendor agreed to sell and SAC 4 Inc. agreed to purchase the Purchased Assets. The Purchase Agreement was subsequently assigned to the Purchaser.
- B. It is a condition of the Closing that an escrow fund be established to hold the Escrow Fund to provide for payment of the MOH Closing Adjustment as required under Amending Agreement No. 14 to the Purchase Agreement.
- C. The Escrow Agent has agreed to facilitate the purchase and sale of the Purchased Assets pursuant to the provisions of this Agreement.

THEREFORE, the Parties and the Escrow Agent agree as follows:

ARTICLE 1 DEFINITIONS

1.1 Capitalized Terms

Capitalized terms used in this Agreement and not otherwise defined have the meanings given to them in the Purchase Agreement.

1.2 Defined Terms

In this Agreement the following terms have the following meanings:

- 1.2.1 "Agreement" means this agreement, as it may be supplemented or amended by written agreement between the Parties and the Escrow Agent.
- 1.2.2 "Claim" means any claim, demand, action, cause of action, suit, arbitration, investigation, proceeding, complaint, grievance, charge, prosecution, assessment or reassessment (including any appeal or application for review) and includes the Escrow Agent's costs and/or expenses of defending itself against any claim of liability or in any action for interpleader and any costs and/or expenses if it is required to attend or provide evidence in a dispute between the Parties in relation to this Agreement.
- 1.2.3 "Document" is defined in Section 7.3.
- 1.2.4 "Escrow Fund" is defined in Section 3.1.
- 1.2.5 "Final Release Date" is defined in Section 6.1.
- 1.2.6 "Joint Instructions" means written instructions given by all the Parties to the Escrow Agent from time to time providing for the investment, reinvestment, liquidation or payment of all or any part of the Escrow Fund.
- 1.2.7 "Purchase Agreement" is defined in the recitals.
- 1.2.8 "Term" is defined in Section 3.3.

1.3 Certain Rules of Interpretation

- 1.3.1 In this Agreement, words signifying the singular number include the plural and vice versa, and words signifying gender include all genders. Every use of the word "including" in this Agreement is to be construed as meaning "including, without limitation".
- 1.3.2 The division of this Agreement into Articles and Sections, the insertion of headings and the provision of a table of contents are for convenience of reference only and do not affect the construction or interpretation of this Agreement.

- 1.3.3 References in this Agreement to an Article or Section are to be construed as references to an Article or Section of this Agreement unless the context requires otherwise.

1.4 Governing Law

This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in that Province.

1.5 Entire Agreement

This Agreement constitutes the entire agreement between the Parties and the Escrow Agent pertaining to the administration and disposition of the Escrow Fund by the Escrow Agent, and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties and the Escrow Agent. There are no representations, warranties, or conditions (including any that may be implied by statute) and there are no other agreements between the Parties and the Escrow Agent in connection with the administration and disposition of the Escrow Fund except as specifically set out in this Agreement. None of the Parties or the Escrow Agent has been induced to enter into this Agreement in reliance on, and there will be no liability assessed, either in tort or in contract, with respect to, any warranty, representation, opinion, advice or assertion of fact, except to the extent it has been reduced to writing and included as a term of this Agreement.

ARTICLE 2 DISCLOSURE, APPOINTMENT AND ACCEPTANCE

2.1 Appointment and Acceptance

The Parties appoint the Escrow Agent to act, and the Escrow Agent accepts the appointment and will act, as escrow agent in accordance with this Agreement.

2.2 Disclosure and Right to Act

The Purchaser acknowledges that the Escrow Agent acts as solicitors for the Vendor in all matters arising under or related to the Purchase Agreement except with respect to fulfilling its obligations under this Agreement. The Purchaser acknowledges that no solicitor-client relationship arises between the Escrow Agent and the Purchaser as a result of the Escrow Agent acting as escrow agent in accordance with this Agreement.

ARTICLE 3
ESTABLISHMENT OF ESCROW

3.1 Escrow Fund

At the time of Closing, the Vendor will deposit into escrow with the Escrow Agent by a wire transfer of immediately available funds, a certified cheque or a bank draft the sum of \$150,000 which amount, as increased by any earnings or decreased by any disbursements or losses on investments, will be referred to in this Agreement as the "**Escrow Fund**". The Escrow Fund will be held by the Escrow Agent as a trust fund, to be applied in accordance with Section 2.8(c) of the Purchase Agreement, as amended.

3.2 Receipt

The Escrow Agent:

- 3.2.1 will acknowledge in writing receipt of the Escrow Fund immediately upon receipt of same and confirm that the Escrow Fund will be held in accordance with this Agreement; and
- 3.2.2 confirms that it has no ownership interest in the Escrow Fund, but is serving as escrow holder only, and has possession of the Escrow Fund only in accordance with this Agreement.

3.3 Term

The term of this Agreement (the "**Term**") will begin at the time the Escrow Agent acknowledges in writing receipt of the Escrow Fund, and will end on the earlier of:

- 3.3.1 the effective date of the Escrow Agent's resignation, as provided in Section 7.4;
- 3.3.2 the effective date of the Escrow Agent's removal, as provided in Section 7.5; and
- 3.3.3 the termination of the escrow, as provided in Section 6.1.

ARTICLE 4
INVESTMENT OF ESCROW FUND

4.1 Direction to Invest

Except as expressly provided in this Agreement, and subject to any Joint Instructions, the Escrow Agent is directed to invest the Escrow Fund, including any interest or other proceeds earned, in an interest bearing deposit account or interest bearing instruments with a Canadian chartered bank listed in Schedule 1 to the *Bank Act* (Canada).

- 5 -

4.2 Authorization to Disclose

Either Party may, at any time, request full particulars of the investments provided for in Section 4.1, and upon receipt of any such request, the Escrow Agent will disclose those particulars in writing to both Parties.

4.3 Liquidation of Investments

The Escrow Agent is authorized, at any time during the Term, to liquidate any portion of the Escrow Fund consisting of investments in accordance with its customary procedures, to provide funds for any payments required to be made under this Agreement.

4.4 Restricted Access to Funds

The Parties acknowledge and understand that all or any portion of the Escrow Fund invested in interest bearing instruments (including the instruments described in Section 4.1) and, if available before maturity, may be available only on terms which require payment of break fees, make whole premiums, or similar charges to the issuers of such instruments.

**ARTICLE 5
RELEASE OF ESCROW FUND**

5.1 Release of Escrow Fund

At any time during the Term, the Escrow Agent may receive Joint Instructions with regard to the application of the Escrow Fund under Section 2.8(c) of the Purchase Agreement specifying payment due to the Purchaser and/or the Vendor, as the case may be, and the Escrow Agent will, within 3 Business Days of receiving the Joint Instructions pay to the Purchaser and/or the Vendor, as the case may be, the dollar amount set out in such Joint Instructions.

**ARTICLE 6
TERMINATION OF ESCROW**

6.1 Termination of Escrow

If the Term has not already ended by virtue of the Escrow Agent's resignation or removal, the escrow established by this Agreement will terminate on the earlier to occur of (the "Final Release Date"):

6.1.1 there being no further funds in the Escrow Fund; and

6.1.2 June 30, 2015, at which time any balance in the Escrow Fund will be paid to the Vendor in accordance with Section 2.8(c) of the Purchase Agreement.

ARTICLE 7
DUTIES AND RIGHTS OF THE ESCROW AGENT

7.1 Duties of the Escrow Agent

7.1.1 Specific Duties. The Escrow Agent will:

- 7.1.1.1 hold, safeguard, invest, reinvest and pay the Escrow Fund in accordance with this Agreement;
- 7.1.1.2 deduct, at the time any payment of income is made from the Escrow Fund, all amounts from the payment which the Escrow Agent is required to deduct pursuant to applicable withholding tax laws; and
- 7.1.1.3 remit all amounts withheld under Section 7.1.1.2 to the appropriate governmental authority.

7.1.2 No Implied Duties. Except as expressly provided in this Agreement, the Escrow Agent will have no other duties or responsibilities under this Agreement and no implied duties or obligations will be read into this Agreement against the Escrow Agent.

7.1.3 No Duty—Instances. Without limiting the generality of Section 7.1.2, the Escrow Agent will have no duty to:

- 7.1.3.1 give the Escrow Fund any greater degree of care than required under the applicable by-laws and rules of professional conduct established by the Law Society of Upper Canada;
- 7.1.3.2 invest all or any part of the Escrow Fund except as directed in this Agreement;
- 7.1.3.3 enforce any obligation of any Person, except as expressly provided in this Agreement;
- 7.1.3.4 make any representation as to the validity, value, genuineness or collectability of any Document held by or delivered to it; or
- 7.1.3.5 advise any Party as to the wisdom in selling or retaining, or taking or refraining from taking any action, with respect to any property in the Escrow Fund.

7.2 Liability of the Escrow Agent

The Escrow Agent will not be liable for any action taken or not taken by it with respect to any matter relating to this Agreement, except for its own wilful misconduct or gross negligence.

7.3 Rights of the Escrow Agent

The Escrow Agent will be entitled to:

- 7.3.1 rely upon any Joint Instructions, any judgment, court order or other judicial process, certification, demand, notice, deed, agreement, instrument, security or other writing (each being a "**Document**") delivered to it under this Agreement without being required to determine the:
 - 7.3.1.1 authenticity of any Document (whether the Document purports to be an original or a copy);
 - 7.3.1.2 due authorization, execution or delivery of any Document;
 - 7.3.1.3 correctness of any fact stated in any Document; or
 - 7.3.1.4 propriety or validity of the service of any Document;
- 7.3.2 rely upon any signature believed by the Escrow Agent to be genuine;
- 7.3.3 assume that the Person purporting to give any receipt or advice or make any statement or execute any Document in connection with the provisions of this Agreement has been duly authorized to do so;
- 7.3.4 assume that the undersigned representative of any Party which is an entity other than a natural person has full power and authority to instruct the Escrow Agent on behalf of that Party unless written notice to the contrary is delivered to the Escrow Agent;
- 7.3.5 in its capacity as a trustee for the benefit of the Parties, seek advice and directions from a court having jurisdiction;
- 7.3.6 commence or defend any action or proceeding for the determination of any Claims, including a suit or action in interpleader;
- 7.3.7 retain at the Parties' sole expense, and act on the opinion, advice or information obtained from, any independent lawyer or other expert, whether retained by the Escrow Agent or any Party, but will not be bound to act upon such opinion, advice or information and, except as expressly provided in this Agreement, will not be held responsible for any losses occasioned by so retaining or not retaining any such independent lawyer or other expert or for so acting or not so acting, as the case may be; and
- 7.3.8 employ any assistance as the Escrow Agent may, in its sole discretion, determine to be necessary or advisable to properly discharge its duties under this Agreement and pay, for the account of the Parties, the fees, disbursements and other costs required for such assistance, including legal or other services provided for in Section 7.3.7.

7.4 Resignation of Escrow Agent

The Escrow Agent may resign at any time upon 5 Business Days' prior written notice, and:

- 7.4.1 if the Escrow Agent has received Joint Instructions within the 5 Business Day period to deliver the Escrow Fund to a named successor escrow agent, the Escrow Agent's resignation will take effect on the date of delivery of the Escrow Fund to the successor escrow agent; or
- 7.4.2 if the Escrow Agent has not received the Joint Instructions described above within the 5 Business Day period, the Escrow Agent's sole responsibilities after the expiry of that period will be to hold and safeguard (and not to invest or reinvest) the Escrow Fund until the Joint Instructions are received pursuant to Section 7.4.1 above.

7.5 Removal of the Escrow Agent

The Parties may remove the Escrow Agent at any time by Joint Instructions, and:

- 7.5.1 if those Joint Instructions name a successor escrow agent, the Escrow Agent's removal will take effect on the date of delivery of the Escrow Fund to the successor escrow agent;
- 7.5.2 if those Joint Instructions do not name a successor escrow agent the Escrow Agent's sole responsibilities will be to hold and safeguard (and not to invest or reinvest) the Escrow Fund until the Joint Instructions are received pursuant to Section 7.5.1 above.

7.6 Discharge from Duties

At the time the Escrow Agent's resignation or removal, as the case may be, takes effect, the Escrow Agent will be discharged of and from any and all further duties and obligations arising in connection with this Agreement.

7.7 Disagreement

If any disagreement between the Parties results in adverse claims or demands made in relation to the Escrow Fund or if the Escrow Agent is in doubt as to what action it should take under this Agreement, the Escrow Agent:

- 7.7.1 will be entitled to retain the Escrow Fund until the Escrow Agent has received Joint Instructions directing payment of the Escrow Fund and the Escrow Agent will rely and act on the Joint Instructions without further question by paying the Escrow Fund as directed; and
- 7.7.2 will be entitled to continue to act as legal counsel to the Vendor in connection with any matter unconnected to any such disagreement, and its appointment as Escrow Agent will in no way hinder its ability to do so.

7.8 Escrow Agent's Compensation**7.8.1 Right to Payment and Reimbursement.** The Parties will:

- 7.8.1.1 pay the Escrow Agent compensation (as payment in full) for the services to be rendered by the Escrow Agent under this Agreement in the amount of \$2,500 at the time of Closing and \$750 on each anniversary of the Closing plus HST or other applicable taxes; and
- 7.8.1.2 reimburse the Escrow Agent for all reasonable expenses, disbursements or advances incurred or made by the Escrow Agent in performance of its duties under this Agreement (including reasonable fees, expenses and disbursements of its counsel), with the exception of any such expenses, disbursements or advances incurred by the Escrow Agent in connection with any Claim successfully asserted against the Escrow Agent under Section 7.2,

and each such payment or reimbursement to which the Escrow Agent is entitled will be borne 50% by the Purchaser and 50% by the Vendor.

7.9 Indemnity

Except to the extent that any Claim which can be brought under Section 7.2 is successfully asserted against the Escrow Agent, the Parties will jointly and severally indemnify and hold harmless the Escrow Agent (and any successor escrow agent) from and against any and all Claims incurred or sustained by the Escrow Agent in respect of any matter or thing done by it under, pursuant to or in connection with this Agreement, or otherwise arising in connection with its office as Escrow Agent.

7.10 Certain Obligations of the Parties

Use of Escrow Agent's Name. No printed or other matter in any language (including prospectuses, notices, reports and promotional material) that mentions the Escrow Agent's name or the rights, powers or duties of the Escrow Agent will be issued by or on behalf of the Parties unless the Escrow Agent will first have given its specific written consent.

**ARTICLE 8
OWNERSHIP FOR TAX PURPOSES**

8.1 Rights and Obligations

The Vendor will:

- 8.1.1 be treated as the owner of the Escrow Fund for purposes of all applicable taxes;

- 8.1.2 report, if applicable, all income, if any, that is earned on, or derived from, the Escrow Fund as its income in the taxation year or years in which such income is properly includible; and
- 8.1.3 pay any taxes attributable to the Vendor pursuant to this Article 8.

ARTICLE 9 GENERAL

9.1 Notices

Any notice provided in connection with this Agreement will be provided in accordance with Section 6.8 of the Purchase Agreement, with delivery to the Escrow Agent to be made to the Escrow Agent at:

Gowling Lafleur Henderson LLP
1 First Canadian Place
100 King Street West, Suite 1600
Toronto, Ontario M5X 1G5

Attention: Cliff Prophet and Harry VanderLugt
Facsimile No.: 416-862-7661

9.2 Severability

Each provision of this Agreement is distinct and severable. If any provision of this Agreement, in whole or in part, is or becomes illegal, invalid or unenforceable in any jurisdiction, the illegality, invalidity or unenforceability of that provision will not affect:

- 9.2.1 the legality, validity or enforceability of the remaining provisions of this Agreement;
or
- 9.2.2 the legality, validity or enforceability of that provision in any other jurisdiction.

9.3 Submission to Jurisdiction

Each of the Parties and the Escrow Agent irrevocably submits and attorns to the exclusive jurisdiction of the courts of the Province of Ontario to determine all issues, whether at law or in equity, arising from this Agreement.

9.4 Remedies Cumulative

The rights and remedies of the Parties and the Escrow Agent under this Agreement are cumulative and not alternative.

9.5 Amendment and Waiver

No supplement, modification, amendment, waiver, discharge or termination of this Agreement is binding unless it is executed in writing by each of the Parties and the Escrow Agent. No waiver of, failure to exercise or delay in exercising, any provision of this Agreement constitutes a waiver of any other provision (whether or not similar) nor does any waiver constitute a continuing waiver unless otherwise expressly provided.

9.6 Assignment and Enurement

None of the Parties and the Escrow Agent may assign this Agreement, or any of its rights or obligations under this Agreement, without the prior written consent of the Parties, or the Escrow Agent and the other Party, as the case may be, save and except that the Vendor may, upon the approval or direction of the court, transfer all or any of its right and obligations hereunder to a another receiver approved by the court. This Agreement enures to the benefit of and is binding upon the Parties and the Escrow Agent and their respective successors and permitted assigns.

9.7 Counterparts

This Agreement may be executed and delivered by the Parties in one or more counterparts, each of which when so executed and delivered will be an original.

9.8 Survival

Section 7.8 and any other provisions that would reasonably be expected to remain in force will survive the termination of the escrow created under this Agreement. The termination of the escrow created under this Agreement will not affect the rights of any Party or the Escrow Agent to make a claim for damages arising from a breach of any provision of this Agreement which occurred prior to that termination.

THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.

Each of the Parties has executed and delivered this Agreement as of the date noted at the beginning of the Agreement.

CVH (NO. 1) LP by its managing general partner
CVH GP INC.

Per: _____

Name: Michael Petersen

Title: President, CVH GP Inc.

DELOITTE & TOUCHE INC., solely in its
capacity as court-appointed interim receiver and
receiver and manager of the current and future
assets, undertakings and properties of Craiglee
Nursing Home Limited and not in its personal
capacity

Per: _____

Name: Daniel Weisz

Title: Senior Vice President

GOWLING LAFLEUR HENDERSON LLP

Per: _____

Name: Harry VanderLugt

Title: Partner

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T976855\TOR_LAW\ 80366402

ESCROW AGREEMENT (CRAIGLEE)

TAB I

Deloitte & Touche Inc.
181 Bay Street
Brookfield Place, Suite 1400
Toronto ON M5J 2V1
Canada

Tel: 416-775-7326
Fax: 416-601-6690
www.deloitte.ca

November 12, 2012

To: Craiglee Nursing Home Salaried Employees

Re: Sale of Craiglee Nursing Home to CVH (No. 1) LP

This letter is to advise you that Deloitte & Touche Inc., solely in its capacity as court-appointed interim receiver and receiver and manager of Craiglee Nursing Home Limited ("Craiglee") and not in its personal capacity (the "Receiver"), has entered into an Agreement of Purchase and Sale, as amended, with SAC 4 Inc. dated April 1, 2011 for the sale of Craiglee's assets to SAC 4 Inc. (the "Sale Agreement"). The Sale Agreement was subsequently assigned to CVH (No. 1) LP ("CVH"). The sale is scheduled to be completed on November 13, 2012 (the "Closing Date").

As a result of the closing of the sale, your employment by the Receiver has come to an end as of the Closing Date. In accordance with the Sale Agreement, we understand that CVH has or will be making an offer of employment to you effective as of the Closing Date for your continued work at the facility.

We thank you for your assistance during the receivership and wish you the best of luck in the future.

Yours very truly,

DELOITTE & TOUCHE INC.

solely in its capacity as court-appointed interim receiver
and receiver and manager of the current and future assets,
undertakings and properties of Craiglee Nursing Home Limited

Per:



Hartley Bricks, MBA, CA•CIRP
Vice President

TAB J

Deloitte & Touche Inc.
181 Bay Street
Brookfield Place, Suite 1400
Toronto ON M5J 2V1
Canada

Tel: 416-775-7326
Fax: 416-601-6690
www.deloitte.ca

November 12, 2012

TO SUPPLIERS OF GOODS AND SERVICES TO CRAIGLEE NURSING HOME

Re: Sale of Craiglee Nursing Home to CVH (No. 1) LP

This letter is to advise you that Deloitte & Touche Inc., solely in its capacity as court-appointed interim receiver and receiver and manager of Craiglee Nursing Home Limited ("Craiglee") and not in its personal capacity (the "Receiver"), has entered into an Agreement of Purchase and Sale, as amended, with SAC 4 Inc. dated April 1, 2011 for the sale of Craiglee's assets to SAC 4 Inc. (the "Sale Agreement"). The Sale Agreement was subsequently assigned to CVH (No. 1) LP ("CVH"). The sale is scheduled to be completed on November 13, 2012 (the "Closing Date").

Please be advised that neither the Receiver nor Extendicare (Canada) Inc. ("Extendicare"), acting as agent for the Receiver, is responsible for any goods and services provided by your company to Craiglee after November 12, 2012 and that any supply agreements terminate as of that date. Invoices for any goods and services provided to Craiglee prior to November 13, 2012 should be sent to 102 Craiglee Drive, Ontario, M1N 2M7 and will be paid by the Receiver in the normal course. Any questions regarding your invoices for goods or services provided to Casa Verde prior to November 13, 2012 should be directed to Dawn McEwen of Craiglee at 416-267-2000.

Commencing November 13, 2012, supplier inquiries regarding future goods and services for Craiglee should be directed to Dawn McEwen of Craiglee at 416-267-2000. For your information, Extendicare will continue to manage Craiglee on behalf of CVH.

On behalf of the Receiver and Extendicare, we thank you for your support during the receivership of Craiglee.

Yours very truly,

DELOITTE & TOUCHE INC.

in its capacity as court-appointed interim receiver and
receiver and manager of the current and future assets,
undertakings and properties of Craiglee Nursing Home Limited
and not in its personal capacity

Per:



Hartley Bricks, MBA, CA-CIRP
Vice President

TAB K

MINUTES OF SETTLEMENT

BETWEEN:

MARIANNE AMODEO

- and -

DELOITTE & TOUCHE INC., CRAIGLEE NURSING HOME LIMITED AND
EXTENDICARE (CANADA) INC.

WHEREAS on April 28, 2009 Deloitte & Touche Inc. ("Deloitte") was appointed as the Interim Receiver and Receiver and Manager of the assets, properties and undertakings of Craiglee Nursing Home Limited ("Craiglee") pursuant to the Order of Mr. Justice C. Campbell (the "Receivership Order") in the matter of Desjardins Financial Security Life Assurance Company ("Desjardins") v. Craiglee Nursing Home Limited, being an application issued in the Ontario Superior Court of Justice [Commercial List], Court File No. CV-09-8156-00CL, (the "Receivership Application");

AND WHEREAS Extendicare (Canada) Inc. ("Extendicare") has been retained by Deloitte to manage Craiglee Nursing Home (the "Nursing Home") during the Receivership;

AND WHEREAS Marianne Amodeo ("Amodeo") was employed by Deloitte, solely in its capacity as Interim Receiver and Receiver and Manager of Craiglee (the "Receiver"), and managed by Extendicare as a part-time social worker at Craiglee pursuant to a contract of employment dated October 27, 2009;

AND WHEREAS Amodeo's employment with the Receiver at Craiglee was terminated on or about June 29, 2010;

AND WHEREAS following the termination of Amodeo's employment with the Receiver, Amodeo brought (i) two Applications against Craiglee, Deloitte, Extencicare, Hartley Bricks, Paul Tuttle, Margaret Lazure, Rodrigo Cartagena and Chantal LalFreniere pursuant to the Occupational Health and Safety Act in the Ontario Labour Relations Board Files #2264-10-OH and #2781-10-OH (the "OHSa Applications"); and (ii) an Application to the Human Rights Tribunal of Ontario against Rodrigo Cartagena, Chantal LalFreniere and Gary Loder in OHRT File No. 2010-07670-1 (the "OHRT Application");

AND WHEREAS Amodeo proposes to issue a Statement of Claim and commence an action against the Receiver, Desjardins, Craiglee and Extencicare in the Ontario Superior Court of Justice (the "Proposed Statement of Claim");

AND WHEREAS the OHSa Applications, the OHRT Application and the Proposed Statement of Claim, are individually and collectively referred to herein as the "Proceedings";

AND WHEREAS an interim decision of the Vice-Chair, Patrick Kelly, Ontario Labour Relations Board, dated May 9th, 2011, (the "OHSa Interim Decision") directed that the OHSa Applications be adjourned sine die for a period of one year to enable the applicant, Amodeo, to obtain the consent of the relevant entities or the leave of the Ontario Superior Court of Justice (the "Court") to proceed with the OHSa applications;

AND WHEREAS as a result of the terms of the Receivership Order, the OHSa Applications and the OHRT Application are stayed pursuant to the terms of the Receivership Order;

AND WHEREAS as a result of the OHSa Interim Decision and the terms of the Receivership Order, Amodeo requires leave of the Court to continue prosecuting the OHSa

Applications and the OHRT Application, and leave of the Court to issue the Proposed Statement of Claim;

AND WHEREAS there is a motion scheduled in the Receivership Application on March 6, 2012 for the purposes of determining whether the stay of proceedings established by the Receivership Order should be lifted for the purposes of allowing the OHSA Applications and the OHRT Application to proceed, and for the purposes of allowing Amodeo to issue the Proposed Statement of Claim;

AND WHEREAS the parties have agreed to consent to an order in the Receivership Application upon the terms and conditions as specifically and expressly set out herein in these Minutes of Settlement, lifting the stay of proceedings established by the Receivership Order in respect of the OHSA Applications and the OHRT Application, and lifting the stay of proceedings established by the Receivership Order precluding the Proposed Statement of Claim from being issued.

THEREFORE the parties hereto in consideration of the terms and conditions hereinafter set out, agree as follows:

1. Deloitte and Extendicare consent to an Order without costs, as appended hereto as Appendix "A", lifting the stay of proceedings established by the Receivership Order in respect of the OHSA Applications and the OHRT Application, and consent to Amodeo proceeding with the OHSA Applications and the OHRT Application as against Craiglee, Deloitte and Extendicare, subject to paragraphs 3 and 4 below.
2. Deloitte and Extendicare consent to an Order without costs, as appended hereto as Appendix "A", lifting the stay of proceedings established by the Receivership Order as it applies

to the Proposed Statement of Claim, for the purposes of allowing Amodeo to issue the Proposed Statement of Claim, subject to paragraph 5 below.

3. Amodeo agrees that she shall not issue or continue any claim or proceeding, including but not limited to the Proceedings, against any person or individual who is named or could have been named as an individual respondent or defendant in any or all of the Proceedings or otherwise, including but not limited to any and all of Angie Heinz, Margaret Lazure, Paul Tuttle, Hartley Bricks, Rodrigo Cartagena, Chantal LaPreniere, Gary Lader and any other individual named directly or indirectly in any of the Proceedings (the "Individual Respondents"). Amodeo agrees that she shall forthwith advise and confirm with the Registrars of the Ontario Labour Relations Board and the Ontario Human Rights Tribunal that the Proceedings against each of the Individual Respondents named in the Proceedings are discontinued and/or withdrawn effective immediately, and that the title of all Proceedings shall be amended, on consent of all parties, to remove the Individual Respondents named in each of the Proceedings and to add instead as parties, as may be necessary, Craiglee Nursing Home Limited, Extendicare (Canada) Inc., and Deloitte & Touche Inc., solely in its capacity as Interim Receiver and Receiver and Manager of Craiglee Nursing Home Limited.

4. Amodeo shall first proceed with the OSHA Applications at the Ontario Labour Relations Board in Board File #2264-10-OH and #2781-10-OH. The OHRIT Application shall be held in abeyance by the parties and shall not proceed pending a final and binding decision of the Ontario Labour Relations Board in the OSHA Applications (including any appeals thereof) or the withdrawal of the OSHA Applications in their entirety by Amodeo.

5. Amodeo shall be entitled to issue and serve the Proposed Statement of Claim against Deloitte solely in its capacity as Interim Receiver and Receiver and Manager of Craiglee Nursing Home Limited, Craiglee and Extendicare, as amended to remove Desjardins Financial Security Life Assurance Company as a party to the Proposed Statement of Claim. The Proposed Statement of Claim, as issued, shall then be held in abeyance and shall not proceed until a final and binding decision of the Human Rights Tribunal in respect of the OHRT Application has been delivered to the parties (including any appeals thereof), or Amodeo has withdrawn the OHRT Application in its entirety.

6. This Agreement and the terms stated above are without prejudice to the parties to the Proceedings (as amended) bringing any motions or applications they individually or collectively deem necessary or appropriate to deal with any procedural or substantive issues arising out of the Proceedings, including but not limited to the right to move to strike all or part of any pleading or claim in any Proceeding, but subject to the provisions in paragraphs 4 and 5 above that the OHRT Application and the Proposed Statement of Claim be held in abeyance.

7. The parties agree that nothing contained in these Minutes of Settlement and the agreement reached between the parties hereto shall constitute or be considered as an admission of any liability, fault, right of action, claim, cause or complaint whatsoever on the part of any of the parties to the Proceedings.

8. These Minutes of Settlement shall be governed by and construed in accordance with the laws of the Province of Ontario; and

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9. Amodeo acknowledges that she has received independent legal advice in respect of this agreement and that she has fully understood the terms and conditions as set out in the Minutes of Settlement and she accepts these terms and conditions freely and voluntarily.

Marlaine Amodeo

Date: March 09, 2012



Deloitte & Touche Inc.

Date: March , 2012

Per: 

Name: DANIEL WEISS

Title: SENIOR VICE PRESIDENT

I have authority to bind the Corporation

Extendicare (Canada) Inc.

Per: 

Date: March , 2012

Name: Deborah Baker

Title: Vice President, HR

I have authority to bind the Corporation

Craiglee Nursing Home Limited

Per: 

Date: March , 2012

Name: HARTELEY BERKS

Title: VICE PRESIDENT, DELOITTE & TOUCHE INC. solely in its capacity as Interim Receiver and Receiver and Manager of Craiglee Nursing Home Limited

I have the authority to bind the Corporation

TAB L

Court File No. CV- 09-8156-00CL

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

THE HONOURABLE
JUSTICE CAMPBELL

)
)
)

WEDNESDAY, THE 14th DAY
OF MARCH, 2012

B E T W E E N:

**DESJARDINS FINANCIAL SECURITY LIFE
ASSURANCE COMPANY**

Applicant

- and -



CRAIGLEE NURSING HOME LIMITED

Respondent

O R D E R

THIS MOTION made by **Marianne Amodeo**, for an order granting leave to continue (i) Ontario Labour Relations Board applications bearing File numbers 2264-10-OH and 2781-10-OH (the "**OHSA Applications**") against Craiglee Nursing Home Ltd. ("**Craiglee**"), Deloitte & Touche Inc. ("**Deloitte**") and Extendicare (Canada) Inc. ("**Extendicare**") and certain individuals (Angie Heinz, Hartley Bricks, Paul Tuttle, Margaret Lazure, Chantal LaFreniere and Rodrigo Cartagena); (ii) an Application to the Human Rights Tribunal of Ontario against Rodrigo Cartagena, Chantal LaFreniere and Gary Loder bearing File No. 2010-07670-I (the "**OHRT Application**"); and (iii) leave to issue a Statement of Claim (the "**Proposed Statement of Claim**"), against Deloitte, Craiglee, Extendicare, and Desjardins Financial Security Life

Assurance Company ("**Desjardins**") attached as an Exhibit to the affidavit of Dylan Bethune sworn February 14, 2012 (the "**Bethune Affidavit**"), was heard this day at Toronto.

ON READING the affidavit of Marianne Amodeo sworn December 30, 2011, and the affidavit of Dylan Bethune sworn February 14, 2012, and upon being advised that this Order was to be issued on the Consent of Deloitte and Amodeo,

1. **THIS COURT ORDERS** that the stay of proceedings herein established by the Order of Justice C. Campbell made April 28, 2009 (the "**Receivership Order**") be and is hereby lifted in respect of the OHSA Applications, and that leave to continue the OHSA Applications be and is hereby granted, but only as against Craiglee, Deloitte, solely in its capacity as Interim Receiver and Receiver and Manager of Craiglee, and/or Extendicare.

2. **THIS COURT ORDERS** that Angie Heinz, Hartley Bricks, Paul Tuttle, Margaret Lazure, Chantal LaFreniere and Rodrigo Cartagena, be and are hereby removed as named parties from the OHSA Applications.

3. **THIS COURT ORDERS** that the stay of proceedings herein established by the Receivership Order be and is hereby lifted in respect of the OHRT Application, and that leave to continue the OHRT Application be and is hereby granted, but only as against Craiglee, Deloitte, solely in its capacity as Interim Receiver and Receiver and Manager of Craiglee, and/or Extendicare.

4. **THIS COURT ORDERS** that Rodrigo Cartagena, Chantal LaFreniere and Gary Loder be and hereby removed as named parties from the OHRT Application.

5. **THIS COURT ORDERS** that leave to issue the Proposed Statement of Claim be and is hereby granted, but only as against Craiglee, Deloitte, solely in its capacity as Interim Receiver and Receiver and Manager of Craiglee, and/or Extendicare.

6. **THIS COURT ORDERS** that Amodeo shall not issue or continue any claim or proceeding against any individual who is named or could have been named as an individual respondent or defendant in any or all of the OHSA Applications, the OHRT Application and/or the Proposed Statement of Claim (collectively, the "**Proceedings**") or otherwise, including but not limited to any and all of Angie Heinz, Margaret Lazure, Paul Tuttle, Hartley Bricks, Rodrigo Cartagena, Chantal LaFreniere, Gary Loder and any other individual named directly or indirectly in any of the Proceedings (the "**Individual Respondents**").

7. **THIS COURT ORDERS** that Amodeo shall forthwith advise and confirm with the Registrars of the Ontario Labour Relations Board and the Ontario Human Rights Tribunal that the OHSA Applications and the OHRT Application against each of the Individual Respondents are discontinued and/or withdrawn effective immediately, and that the title of proceedings in the OHSA Applications and the OHRT Application shall be amended, on consent of all parties, to remove the Individual Respondents named in each of these Proceedings and to add instead as parties, as may be necessary, Craiglee, Deloitte, solely in its capacity as Interim Receiver and Receiver and Manager of Craiglee, and/or Extendicare.

8. **THIS COURT ORDERS** that Amodeo shall first proceed with the two OHSA Applications before proceeding with the OHRT Application or the Proposed Statement of Claim. The OHRT Application shall be held in abeyance by the parties and shall not proceed pending a

final and binding decision of the Ontario Labour Relations Board in the OHSA Applications (including any appeals thereof), or the withdrawal of the OHSA Applications in their entirety by Amodeo.

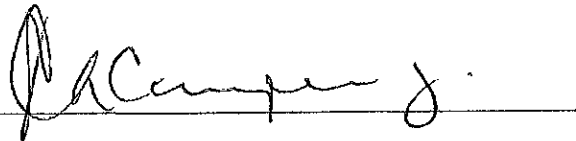
9. **THIS COURT ORDERS** that Amodeo shall be entitled to issue and serve the Proposed Statement of Claim against Craiglee, Deloitte, solely in its capacity as Interim Receiver and Receiver and Manager of Craiglee, and Extendicare, after it is first amended to remove Desjardins as a party to the Proposed Statement of Claim.

10. **THIS COURT ORDERS** that save and except for issuance and service of the Proposed Statement of Claim, Amodeo shall first proceed with OHRT Application before proceeding with the Proposed Statement of Claim as issued, which shall then be held in abeyance and shall not proceed until a final and binding decision of the Human Rights Tribunal in respect of the OHRT Application has been delivered to the parties (including any appeals thereof), or the withdrawal of the OHRT Application in its entirety by Amodeo.

11. **THIS COURT ORDERS** that there be no costs in respect of this motion.

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

MAR 15 2012



DESJARDINS FINANCIAL SECURITY LIFE ASSURANCE COMPANY

and

CRAIGLEE NURSING HOME LIMITED

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at **TORONTO**

ORDER

BLANEY McMURTRY LLP
Barristers and Solicitors
2 Queen Street East, Suite 1500
Toronto, ON M5C 3G5

Eric Golden (LSUC #38239M)
(416) 593-3927 (Tel)
(416) 593-5437 (Fax)

Lawyers for the Applicant

TAB M

**Ontario Labour
Relations Board**

505 University Avenue
2nd Floor
Toronto, Ontario M5G 2P1
Telephone: 416-326-7500
Facsimile: 416-326-7531

**Commission des relations
de travail de l'Ontario**

505, avenue University
2^e étage
Toronto (Ontario) M5G 2P1
Téléphone: 416-326-7500
Télécopieur: 416-326-7531



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Our File Number/Numéro de dossier: 2264-10-OH
2781-10-OH

September 19, 2012

TO THE PARTIES LISTED ON APPENDIX "A"

Dear Sir/Madam:

**Marianne Amodeo, v. Craiglee Nursing Home Limited,
Deloitte & Touche Inc. and Extendicare (Canada) Inc.**

**Marianne Amodeo, v. Craiglee Nursing Home Limited,
Deloitte & Touche Inc. and Extendicare (Canada) Inc.**

Attached is a copy of the Board's Decision dated September 19, 2012 in the above matter which is being sent to you by facsimile, regular mail, courier or e-mail.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Gallus".

Peter Gallus
Registrar

PG/kk
Enclosure

APPENDIX "A"

000173

Ms. Marianne Amodeo
16 Hambly Avenue
Apartment B
Toronto, Ontario
M4E 2R6
Tel. (416)764-4205
eMail: mamodeo2001@hotmail.com

Blaney McMurtry LLP
Barristers and Solicitors
2 Queen Street East, Suite 1500
Toronto, Ontario
M5C 3G5
Attention: Mr. William D. Anderson
Tel. (416)593-3901
eMail: wanderson@blaney.com; pberry@blaney.com
Fax. (416)593-5437

Craiglee Nursing Home Limited
102 Craiglee Drive
Scarborough, Ontario
M1N 2M7
Attention: Ms. Angie Heinz
Administrator
Tel. (416)264-2000
Fax. (416)267-8176

Deloitte & Touche Inc.
BCE Place, 181 Bay Street, Suite 1400
Toronto, Ontario
M5J 2V1
Attention: Hartley Bricks
Vice President
Tel. (416)775-7326
Fax. (416)601-6690

Extendicare (Canada) Inc.
3000 Steeles Avenue East, Suite 700
Markham, Ontario
L3R 9W2
Attention: Peter Vanderkloet
Tel. (905)470-4000
Fax. (905)470-5588

Marianne Amodeo
16 Hambly Avenue, Apt. B
Toronto, Ontario
M4E 2R6
Tel. (905)723-2319

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ONTARIO LABOUR RELATIONS BOARD

2264-10-OH; 2781-10-OH Marianne Amodeo, Applicant v. **Craiglee Nursing Home Limited, Deloitte & Touche Inc. and Extendicare (Canada) Inc.**, Responding Parties.

BEFORE: Patrick Kelly, Vice-Chair.

DECISION OF THE BOARD: September 19, 2012

1. In my decision dated April 17, 2012 I consolidated and amended the style of cause with respect to these applications under section 50 of the *Occupational Health and Safety Act*, R.S.O. 1990, c.0.1, as amended ("the Act"). The newly named responding parties were invited to file a fresh response to the applications, which they have done, and the applicant (or "Ms. Amodeo") was invited to file a reply, which she also has done.

2. In their response, the responding parties have raised a number of preliminary issues which they submit ought to result in the dismissal of these applications without a hearing. Ms. Amodeo has responded in writing detailing why the Board should not summarily dismiss the applications.

3. Before considering the preliminary motions, it is helpful to set out generally what these applications are about, and what Ms. Amodeo says happened.

4. The applicant was employed as a social worker at Craiglee Nursing Home ("the Home") for approximately eight months, from October 2009 until late June 2010. In the last month of her employment a new Administrator, Angela Heinz, was hired to oversee the operation of the Home. It is the applicant's subsequent interactions with the Administrator, and the applicant's eventual dismissal that prompted the applicant to file her complaint in Board File No. 2264-10-OH ("the first application"), alleging workplace harassment. Following the filing of the response in that matter, the applicant brought a second complaint of workplace harassment in Board File 2781-10-OH ("the second application"). In essence the second application was a reply to certain allegations contained in the response to the first application. The second application raises allegations of harassment by the Home's Director of Care in April 2010, and refers to certain "discipline" that apparently the applicant also considers a form of harassment.

5. I turn to the specifics of the alleged misconduct. The applicant says that the Director of Care shouted at her in the course of a meeting on April 14, 2010 to discuss with the applicant a resident's treatment plan. According to the responding parties, the applicant was issued a written warning two days later for failure to cooperate with the Director of Care and the then Administrator, Rodrigo Cartagena. The applicant insists that she did not receive any such discipline and did not become aware of the written warning until November 12, 2010, at a mediation meeting in respect of the first

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application, more than four months *after* her dismissal. Nevertheless she appears to consider the written warning as a form of harassment.

6. According to the applicant, Ms. Heinz, the newly hired Administrator of the Home, told the applicant many times that she was to document and keep on file every conversation she had with a resident's family members, for purposes of any Court litigation that might be brought against the Home. The applicant further contends that when she raised issues about her difficulties "keeping up with the Resident Assessment Protocols (RAPS)" at a management meeting, the Administrator told her to work harder and to work extra hours if necessary, otherwise she might face suspension in the event she did not complete the RAPS on time. The applicant wrote an email to various senior management representatives setting out her concerns about Ms. Heinz. Shortly thereafter she was terminated from employment. In the course of her termination interview, Ms. Heinz advised the applicant that the Home was "looking for a social worker to get us out of enforcement." The applicant suspects that her dismissal was motivated by a belief on the part of the Home's management that she would report alleged resident abuse to the Ministry of Health and Long Term Care.

7. The responding parties submit that the application fails to disclose a violation of the Act over which the Board could take jurisdiction. That is to say, the Board lacks jurisdiction under the Act to deal with a dispute, like this one, in which a complainant alleges he or she was subjected to a reprisal after making a workplace harassment complaint. According to the responding parties, the Act only requires an employer to put a workplace harassment policy and program in place and provide a worker with information and instruction as appropriate. The responding parties rely upon *Investia Financial Services Inc.*, 2011 CanLII 60987 (ON LRB) and *Ludlow Technical Products Canada Ltd.*, 2011 Can LII 73172 (ON LRB) in support of these submissions.

8. Secondly, in the alternative, the responding parties contend that the conduct complained of by Ms. Amodio does not constitute workplace harassment within the meaning of the Act. The responding parties rely upon *PPL Aquatic, Fitness and Spa Group Inc.*, 2012 Can LII 77 (ON LRB) and *Simcoe County District School Board*, 2012 CanLII 395 (ON LRB).

9. Thirdly, the responding parties say that the conduct complained of does not relate to any health and safety concern that could be covered by the Act.

10. Finally, the responding parties state that the Board should exercise its discretion under subsection 50(3) of the Act not to inquire into the applications because they are in reality complaints about workplace supervision and discipline and bear no relation to physical hazards or threats in the workplace.

11. The applicant submits that the Board has jurisdiction to deal with her complaint, citing subsections 50(2), (3) and (5) of the Act. Secondly, she submits that the alleged harassment related to a physical hazard, namely a demand by the administrator to work indefinite overtime, which the applicant says threatened her health. In the

applicant's words, "when a manager give unrealistic workloads to a subordinate and they [sic] fail, that is bullying and hence harassment." As I have indicated, the applicant contends that when she complained about the administrator's conduct, she was terminated because the responding parties perceived that her advocacy on behalf of the nursing home residents could lead to the closing down of the nursing home because of alleged resident abuse.

12. I turn first to the contention of the responding parties that the conduct complained of in both applications does not constitute workplace harassment. Even assuming without deciding that all the applicant's allegations are true and provable, I agree with this submission. Workplace harassment is defined in the Act as "engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonable to be known to be unwelcome." That definition would cover behaviour such as comments or remarks that demean, ridicule, intimidate or offend; the display or circulation of offensive pictures or printed material; bullying; and of course, requests, suggestions or advances of a sexual nature. The workplace harassment provisions do not normally apply to the conduct of a manager that falls within his or her normal work function, even if in the course of carrying out that function a worker suffers unpleasant consequences.

13. In *Simcoe County District School Board, supra*, a teacher complained, among other things, that one of his colleagues shouted at him in a meeting. The Board characterized that behaviour as a single act of rudeness that did not constitute workplace harassment. I find that the allegation that the Director of Care shouted at the applicant in the course of a private meeting with the applicant does not constitute a course of vexatious conduct or comment.

14. As for the written warning, I fail to see how that can possibly constitute workplace harassment in light of the applicant's denial that she ever saw or was presented the warning until months after her termination. Surely in order to constitute workplace harassment the impugned conduct must be directed at or against the worker and the worker must be aware of it in the course of his or her employment.

15. Next, I consider the allegation that Ms. Heinz repeatedly reminded Ms. Amodeo to document her discussions with the residents' family members. That strikes me as a reasonable expectation that an employer of this kind might have of its professional staff. Ms. Amodeo did not provide particulars of the frequency of Ms. Heinz's reminders. She did not claim, for example, that Ms. Heinz hounded her mercilessly. Accordingly, I find that, in the circumstances, this is not vexatious conduct.

16. I also find that Ms. Heinz's comments regarding the applicant's inability to keep up with the RAPS also do not constitute a course of vexatious conduct or comment. I do not accept the applicant's characterization that, in suggesting the applicant work harder and put in additional time, Ms. Heinz demanded that she work unlimited overtime to complete an impossible task, thus potentially imperilling the applicant's health. That is not a reasonable interpretation of what Ms. Heinz said based on the applicant's

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description of the incident. The worst that can be said of what happened is that Ms. Heinz made a blunt, unflattering assessment of the applicant's performance and demanded in no uncertain terms that she fulfill management's work expectations or risk discipline. Arguably, Ms. Heinz might have utilized greater tact and sensitivity. But as I have stated, the reality is that sometimes the exercise of management functions - which is what Ms. Heinz was engaging in - results in unpleasant consequences for workers. That does not necessarily translate into workplace harassment. It does not in this case.

17. Accordingly, the applications fail to establish that the responding parties engaged in workplace harassment. On that basis alone, these applications must be, and are, dismissed. It is therefore unnecessary to consider the other arguments advanced by the responding parties.

"Patrick Kelly"
for the Board

TAB N

IN THE MATTER OF THE RECEIVERSHIP OF
CRAIGLEE NURSING HOME LIMITED

**Receiver's Interim Statement of Receipts and Disbursements
for the period April 28, 2009 to November 30, 2012**

Receipts

1. Ministry of Health Funding	\$ 25,713,876
2. Net Proceeds from sale of Nursing Home	9,802,075
3. Cash in bank	604,990
4. Receipts from Public Guardian & Trustee	44,606
5. Interest	33,763
6. Insurance refund	245
7. Total receipts	\$ 36,199,555

Disbursements

8. Funding to Craiglee Nursing Home	\$ 24,331,266
9. Receiver fees	743,282
10. Legal fees	301,138
11. Real estate commissions	263,750
12. Transfer to Escrow Fund	150,000
13. Discharge of mortgage on 9 Vanbrugh	109,743
14. HST	106,413
15. GST	24,222
16. Operating expenses - 9 Vanbrugh	22,608
17. Utilities	11,528
18. Insurance	2,108
19. Bank charges	1,834
20. Environmental consulting	1,000
21. Postage and courier	484
22. Change of locks	288
23. Travel expenses	223
24. Telephone	205
25. Security	140
26. Photocopies	93
27. Filing fee	70
28. Total disbursements	\$ 26,070,395
 29. Excess of receipts over disbursements	 \$ 10,129,160

Notes:

1. The above does not include amounts currently maintained in Craiglee's operating accounts managed by Extendicare.

TAB 0



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December 9, 2011

Deloitte & Touche Inc.
BCE Place
Suite 1400
181 Bay Street
Toronto, Ontario
M5J 2V1

Dear Sir:

**Re: Validity and Enforceability of Security granted by Craiglee Nursing Home Limited
in favour of Desjardins Financial Security Life Assurance Company**

Deloitte & Touche Inc. was appointed as the receiver of Craiglee Nursing Home Limited ("Craiglee") pursuant to an order of the Court dated April 28, 2009. Craiglee entered into credit facilities with First National Financial Corporation (the "Initial Creditor") pursuant to a letter loan agreement dated October 10, 2002 as amended and restated by a letter loan agreement dated October 31, 2003 as amended and assigned by a first amendment and assignment dated November 21, 2005 (collectively, the "Loan Agreement").

In connection with the Loan Agreement Craiglee, Roy Washington McDougall ("Roy") and Doris May McDougall ("Doris") granted certain guarantees and security in favour of the Initial Creditor which was thereafter assigned by the Initial Creditor to Desjardins Financial Security Life Assurance Company (the "Successor Creditor"). We have reviewed the guarantees, security and supporting documents (collectively, the "Security") set out in Schedule "A" attached hereto. Craiglee is referred to herein as the "Debtor" and Roy and Doris are sometimes collectively referred to as the "Guarantors" and each a "Guarantor".

You have asked us to provide you with an opinion in connection with the Security. Specifically, you have asked us to opine on the enforceability of the Security in the Province of Ontario and on the validity and perfection of the security interests, liens and charges (the "Security Interests") created by the Security in:

- (a) the real property collateral (the "Real Property Collateral") which is legally described in:
 - (a) the charge/mortgage of land from the Debtor in favour of the Initial Creditor which was registered on title to the real property bearing property identification number 06432-0413 (formerly PINs 06432-0340(LT), 06432-0410(LT), 06432-0336(LT) and 06432-0339(LT)) as Instrument No. AT391092 on January 22, 2004 as assigned by the Initial Creditor to the Successor Creditor pursuant to a general assignment of



rights dated December 2005 from the Initial to the Successor Creditor and a Transfer of Charge registered as instrument AT1017117 on December 21, 2005 and as amended pursuant to an agreement amending charge/mortgage dated December 20, 2005 between the Debtor, the Successor Creditor and the Guarantors (collectively, the "Charge"); and

- (b) the second charge/mortgage of land from the Debtor in favour of the Successor Creditor which was registered on title to the real property bearing property identification number and 06432-0409(LT) as Instrument No. AT2015651 on February 20, 2009 (the "Second Charge"); and
- (b) the collateral to which the *Personal Property Security Act* (Ontario) (the "PPSA") applies and in which the a security interest was granted under the Security (the "Personal Property Security Collateral" and together with the Real Property Collateral, the "Collateral").

We do not act for the Debtor or the Successor Creditor in this matter and did not act in the preparation of the Security or the registration of it.

Examination of Documents

For the purposes of the opinions set out herein, we have examined:

- (a) photocopies of the executed Security;
- (b) copies of search results conducted in the Province of Ontario against the Debtor and the Guarantors with the Ministry of Consumer and Business Services (Ontario) and under the following statutes:
 - (i) the *Bank Act* (Canada);
 - (ii) the *Bankruptcy and Insolvency Act* (Canada); and
 - (iii) the *Execution Act* (Ontario);

the results and currency of which are set out in Schedule "B" attached hereto;

- (c) Ontario Personal Property Security Registration System Enquiry Response Certificates with a File Currency date of November 14, 2011 with respect to the Debtor and the Guarantors, the results of which are summarized in Schedule "C" attached hereto; and
- (d) such statutes and public records, original or copies (certified or otherwise identified to our satisfaction) of corporate records, certificates and such other instruments as we have deemed necessary or appropriate for the purposes of this opinion.

For the purposes of the opinions expressed below we have considered the questions of law, made the searches and investigations, and examined originals or copies, certified or otherwise identified to our

satisfaction, of the certificates of public officials and other certificates, documents and records, that we considered necessary or relevant, and we have relied without independent verification or investigation on all statements as to matters of fact contained in the certificates, documents and records we examined.

Assumptions and Reliances

For the purposes of the opinions expressed below, we have assumed, without independent investigation or inquiry:

- (a) that with respect to all documents examined by us, the signatures are genuine, the individuals signing those documents had legal capacity at the time of signing, all documents submitted to us as originals are authentic, and certified, conformed or photocopied copies, or copies transmitted electronically or by facsimile, conform to the authentic original documents;
- (b) the completeness, truth, accuracy and currency of the indices and filing systems maintained by the public offices and registries where we have searched or enquired or have caused searches or enquiries to be made and upon the information and advice provided to us by appropriate government, regulatory or other similar officials with respect to those matters referred to in this letter;
- (c) the accuracy of the description of the Personal Property Collateral set out in the Security;
- (d) that:
 - (i) the Debtor has rights in the Collateral;
 - (ii) value, as that term is defined in the PPSA, has been given to the Debtor; and
 - (iii) the Debtor has not agreed to postpone the time for attachment of the Security Interests;
- (e) that the Collateral does not include "consumer goods", as that term is defined in the PPSA;
- (f) that there is and was at all relevant times a valid, legal, enforceable and subsisting debt or other obligation owing by the Debtor to the Successor Creditor;
- (g) that the Debtor:
 - (i) was at the time of authorization, execution and delivery of the Security, and is now, validly constituted and existing under the laws pursuant to which it was constituted;



- (ii) had the corporate power and authority to execute, deliver and perform its obligations under the Security;
 - (iii) has taken all necessary corporate action to authorize the execution, delivery and the performance of its obligations under the Security; and
 - (iv) has duly executed and delivered the Security;
- (h) that the Security executed by the Debtor and each of the Guarantors has not been amended, restated, replaced, terminated or released, and remains in full force and effect;
- (i) that there are no:
- (i) agreements, judgments, rulings, instruments, facts or understandings affecting or concerning the Security, the Security Interests and/or the various principal obligations for which the Security is granted; or
 - (ii) statutory or regulatory prohibitions on, and no consents, licenses, approvals, authorizations or exemptions of any federal or provincial governmental body or regulatory authority required for or in connection with, the execution, delivery and performance by each of the Debtor and the Guarantor of the Security or the Security Interests and/or the various principal obligations with respect to which the Security is granted;

which are not apparent from a review of the Security and which would or might affect the validity or enforceability of the Security;

- (j) that the execution and delivery by the Debtor and the Guarantors of the Security, and the performance by the Debtor and each of the Guarantors of its respective rights and obligations under the Security did not and do not breach or contravene, and were not and are not in conflict with, any law or regulation applicable to the Debtor or the Guarantors or any other agreement to which the Debtor or any of the Guarantors is a party;
- (k) that the execution, delivery and performance of obligations under the Security by the Debtor and each of the Guarantors did not and does not constitute a preference, fraudulent preference, conveyance, fraudulent conveyance or transfer for undervalue under the *Bankruptcy and Insolvency Act* (Canada) or any provincial legislation relating to those issues;
- (l) that the Successor Creditor has not by implicit or explicit course of conduct, waiver, release, discharge, cancellation, forbearance or other means, oral or written, taken any action or steps which have, or which could or would have, altered, diminished, suspended or otherwise affected the terms, conditions of enforceability of the Security

or the indebtedness, liabilities and obligations secured by the Security or any of it; and

- (m) that the Successor Creditor did not know and did not have any reason to believe at any time that the creation of the Security Interests was in contravention of any agreement by which the Debtor or each of Guarantors or their respective property or assets were bound, if there was such a contravention.

Laws Addressed

Except as stated below, the opinions expressed in this letter are limited to the laws of the Province of Ontario and the federal laws of Canada applicable in the Province of Ontario. In particular, without limiting the preceding statement, we express no opinion:

- (a) with respect to the laws of any other jurisdiction, to the extent those laws may govern any aspect of the Security or govern the validity, the perfection, the effect of perfection or non-perfection, or the enforcement of any Security Interests, as a result of the conflict of laws rules of the Province of Ontario; or
- (b) whether, under the conflict of laws rules of the Province of Ontario, the laws of the Province of Ontario would govern the validity, perfection, effect of perfection or non-perfection or enforcement of any of the Security Interests.

Opinions

Based upon the assumptions and reliances stated above, and subject to the qualifications and limitations stated below, we are of the opinion that:

1. The Security to which the Debtor is a party constitutes a legal, valid and binding obligation of the Debtor, enforceable against it in accordance with its terms and would be valid and enforceable against the trustee in bankruptcy and the estate of the Debtor.
2. The Security creates valid Security Interests in favour of the Successor Creditor as described in that security under the laws of the Province of Ontario in any Collateral to which the PPSA and the *Bank Act* (Canada) applies, to secure payment and performance of the obligations secured by the Security.
3. Registration has been made in all public offices provided for under the laws of the Province of Ontario where registration is necessary to perfect the Security Interests in favour of the Successor Creditor, and the Security Interests would be effective against the trustee in bankruptcy and the estate of the Debtor.

Qualifications and Limitations

The opinions in the letter are subject to the following qualifications and limitations:

1. The legality, validity, binding effect and enforceability of the Security are subject to and may be limited by applicable bankruptcy, insolvency, reorganization, arrangement, winding-up, liquidation, moratorium, preference and other similar laws of general application affecting the enforcement of creditors' rights generally.
2. The enforceability of the obligations of the Debtor and the Guarantors under the Security is subject to general equitable principles, including those relating to the conduct of parties such as reasonableness and good faith in the exercise of discretionary powers, to laws relating to laches, undue influence, unconscionability, duress, misrepresentation and deceit, estoppel and waiver, and to the powers of courts to stay proceedings before them, to stay the execution of judgments, to relieve from penalties or the consequences of default (particularly if the default is minor or non-substantive) and to grant relief against forfeiture, and the principle that equitable remedies such as injunctive relief and specific performance are only available in the discretion of the court.
3. A secured creditor may be required to give a debtor reasonable time to satisfy any demand for payment or performance of its obligations under any of the Security before exercising any rights or remedies under it.
4. We express no opinion regarding the existence of, or the right, title or interest of the Debtor or any of Guarantors in and to, any personal property. There is no title registry system in the Province of Ontario with respect to personal property, and no office of public record in which the title to personal property situate in the Province of Ontario may be examined.
5. We express no opinion regarding the ranking or priority of the Security Interests or other interests expressed to be created by the Security.
6. We express no opinion as to whether the provisions of Part VII of the *Financial Administration Act* (Canada) have been complied with. An assignment of federal Crown debts which does not comply with that Act is ineffective as between the assignor and assignee and as against the Crown. Consequently, the Creditor would not have a valid security interest in federal Crown debts unless that Act is complied with.
7. The federal laws of Canada require or permit notices, filings or registrations to be made or other steps or actions to be taken in order to preserve, perfect or protect security interests in certain types of property, including, without limitation, rolling stock, vessels registered under the *Canada Shipping Act, 2001*, patents, trade-marks and copyrights. To the extent that security interests are created by the Security in any of that property, then notices, filings or registrations under those laws may be necessary or desirable in order to preserve, perfect or protect those security interests. We have not searched for the existence of any interests or rights against that property under any of those federal laws, and accordingly we express no opinion as to the creation of security interests in that property.
8. The PPSA imposes certain obligations on secured creditors which cannot be varied by contract and which may also affect the enforcement of certain rights and remedies contained

in the Security to the extent that those rights and remedies are inconsistent with or contrary to the PPSA.

9. We express no opinion as to the enforceability of any provision of the Security which requires a Debtor or Guarantor to pay, or to indemnify the Creditor for, the costs and expenses of the Creditor in connection with judicial proceedings, since those provisions are subject to the discretion of the court to determine by whom and to what extent those costs should be paid.
10. We express no opinion on any provision in the Security which:
 - (a) purports to restrict the access to, or waive the benefit of, statutory, legal or equitable rights, remedies or defences;
 - (b) limits rights of set-off otherwise than in accordance with applicable law;
 - (c) states that amendments or waivers of or with respect to the Security that are not in writing will be ineffective;
 - (d) purports to bind or affect, or confer a benefit upon, persons who are not parties to the Security;
 - (e) purports to exculpate a party from a liability or duty otherwise owed by it to another party; or
 - (f) provides that a certificate or a similar document will be treated as conclusive, final or binding.
11. The enforceability of any provision in the Security which:
 - (a) purports to sever any provision which is invalid or unenforceable under applicable law without affecting the validity or enforceability of the remainder of the relevant Security;
 - (b) stipulates or limits the level of damages to which a party is entitled; or
 - (c) selects the jurisdiction whose laws are to apply or where a dispute is to be resolved;is subject to the discretion of a court.
12. We express no opinion as to licences, permits or approvals that may be required in connection with the enforcement of the Security by the Successor Creditor or by a person on its behalf, whether such enforcement involves the operation of the business of the Debtor or a sale, transfer or disposition of their respective property and assets.

13. We express no opinion as to any Security Interests with respect to any property of a Debtor or Guarantor that is transformed in such a way that it is not identifiable or traceable, or any proceeds of property of the Debtor that are not identifiable or traceable.
14. We express no opinion as to any Security Interests in any of the circumstances described in section 4 of the PPSA, in respect of which the PPSA is stated to have no application.
15. We express no opinion as to the validity of the Security Interests: (i) in any Collateral consisting of a receivable, license, approval, privilege, franchise, permit, lease or agreement (collectively, "Special Property") to the extent that the terms of the Special Property or any applicable law prohibit its assignment or the granting of security interests in it, or require, as a condition of such assignment or grant, a consent, approval or other authorization or registration which has not been made or given, (ii) in permits, quotas or licenses which are held by or issued to a Debtor or Guarantor, or (iii) in growing crops.
16. If the Security creates a mortgage, charge or security interest in or against real property or leases of real property or in property which is now or may become a fixture, or in a right to payment under a lease, mortgage or charge of real property, the enforceability of that mortgage, charge or security interest may be adversely affected by the failure of the Creditor to register the Security, that mortgage, charge or security interest or other notices in respect of them against title to the property of the applicable Debtor or Guarantors in the appropriate land registry, land titles or land title office.
17. The enforceability of the Security Interests in accounts or chattel paper as against an account debtor of a Debtor or Guarantor, as the case may be, is subject to notice of the Security Interest and a direction to pay to the Successor Creditor being given to that account debtor, the terms of the contract between such Debtor or Guarantor, as applicable, and that account debtor and any defence or claim arising out of the contract or a closely connected contract, and any other defence or claim of that account debtor against such Debtor or Guarantor, as applicable, accruing before the account debtor has knowledge of the Security Interest. Further, the Security Interests will not be binding on that account debtor to the extent that the debt or account is paid or otherwise discharged before notice of the Security Interests is given to that account debtor, together with a direction to pay the account or debt to the Successor Creditor.
18. Notwithstanding that the Security Interests have been perfected by registration under the PPSA, the Security Interests in:
 - (a) investment property, as that term is defined in the PPSA will be defeated by certain claimants obtaining control of that property in the circumstances described in the PPSA or in the *Securities Transfer Act*, 2006 (Ontario);
 - (b) instruments, chattel paper, documents of title or money, as those terms are defined in the PPSA, will be defeated by certain claimants obtaining possession of that property in the circumstances described in the PPSA or the *Bills of Exchange Act* (Canada); and

- (c) goods (as defined in the PPSA) will be defeated by certain claimants to whom a Debtor or Guarantor sells or leases those goods in the ordinary course of business in the circumstances described in the PPSA.
- 19. Notwithstanding that the financing statements registered under the PPSA to perfect the Security Interests do not list motor vehicles (as that term is defined in the PPSA) by vehicle identification number, and accordingly a buyer or lessee of any of those motor vehicles which are classified as equipment (as defined in the PPSA) will take them free of the Security Interests if the buyer or lessee bought or leased them without knowledge of the Security Interests.
- 20. The enforceability of the Security is subject to the *Limitations Act, 2002* (Ontario).

Competing Claims to the Collateral

As mentioned above in Qualification #5, we express no opinion regarding the ranking or priority of the Security Interests or other interests expressed to be created by the Security. However, for informational purposes only, we note:

1. The original PPSA registration (the "Original PPSA Registration") against the Debtor in favour of the Initial Creditor and the Successor Creditor bearing file number 079210305 includes a general collateral description which may limit the recourse that the Successor Creditor has to the Personal Property Security Collateral to those assets described in the Original PPSA Registration;
2. The Successor Creditor filed a new PPSA registration (the "New Registration") against the Debtor on April 22, 2009 bearing file number 652903866 which covers all Personal Property Security Collateral, however, this New Registration is registered behind registrations in favour of (A) Her Majesty the Queen as Represented by MOF in the amount of \$376,000 and (B) Enercare Solutions Limited Partnership in the amount of \$7,499 for the HCA Equipment located at 102 Craiglee Drive, Toronto, Ontario;
3. On February 20, 2009, the Successor Creditor registered the Second Charge against the Real Property Collateral known municipally as 9 and 11 Vanbrugh Avenue, Scarborough, Ontario. The Second Charge is registered behind a charge by the Debtor in favour of Scotia Mortgage Corporation in the amount of \$126,000 which was registered on September 8, 2008 as Instrument AT1889172;
4. We understand that there are outstanding source deductions for withholding tax, Canada Pension Plan and Employment Insurance. These source deductions are subject to deemed trusts and may have priority over the Security Interests in registered in favour of the Successor Creditor with respect to certain of the Collateral; and
5. Certain claims have been filed with the Sheriff for the City of Toronto against the Debtor in favour of the Workplace Safety and Insurance Board, the Ministry of Revenue, Revenue Collections Branch, Her Majesty the Queen, Collection Enforcement Officer, Toronto East



Tax Services Office and the Ministry of Revenue, Revenue Collections Branch, Insolvency Unit.

Reliance

This opinion is solely for the benefit of its addressees in connection with the Security. This opinion may not be relied upon in any manner by any other person and may not be disclosed, quoted, filed with a governmental agency or otherwise referred to without our prior written consent.

Yours very truly,

Gartley Leffler Henderson LLP
re cl

SCHEDULE "A"**SECURITY**

1. Charge/Mortgage ("**Charge**") granted by Craiglee Nursing Home Limited ("**Craiglee**") in favour of First National Financial Corporation ("**FNFC**") registered on January 22, 2004 as Instrument No. AT391092 on title to the following properties (the "**Lands**"):

Parcel Identification No.	Municipal Address
06432 - 0413 LT	Consolidation of the following municipal addresses: <ul style="list-style-type: none"> ▪ 10 Sharpe Street, Scarborough, Ontario (Previously, PIN 06432-0336 LT) ▪ 94 Craiglee Drive, Scarborough, Ontario (Previously, PIN 06432-0339 LT) ▪ 96 Craiglee Drive, Scarborough, Ontario (Previously, PIN 06432-0340 LT) ▪ 102 Craiglee Drive, Scarborough, Ontario (Previously, PIN 06432-0410 LT)

2. Acknowledgment re: Standard Charge Terms dated January 22, 2004 from Craiglee, Roy Washington McDougall and Doris May McDougall in favour of FNFC attaching standard charge terms 8616.
3. General Assignment of Rights ("**Assignment of Rights**") dated December 2005 from FNFC to Desjardins Financial Security Life Assurance Company ("**Desjardins**") together with a notice and direction from FNFC to Craiglee dated December 20, 2005.
4. Transfer of Charge by FNFC to Desjardins registered on December 21, 2005 as Instrument No. AT1017117 on title to the Lands.
5. Agreement Amending Charge/Mortgage dated December 20, 2005 between Craiglee, Desjardins and Roy Washington McDougall and Doris May McDougall together with a Notice of Security Interest under s. 71 of the *Land Titles Act* registered on December 23, 2005 as Instrument No. AT1019710 on title to the Lands.
6. Notice of Security Interest registered on December 21, 2005 as Instrument AT1017120 on title to the Lands being a fixture filing from Craiglee in favour of Desjardins with respect to the HVAC, boiler, elevators and other related and similar chattels, fixtures and equipment located on the Lands.
7. Notice of Assignment of Rents - General ("**General Assignment of Rents**") from Craiglee in favour of FNFC registered on January 22, 2004 as Instrument No. AT391093 on title to the Lands.
8. Assignment of General Assignment of Rents dated December 20, 2005 between FNFC and Desjardins together with a Notice Of Assignment Of Rents -General registered on December 21, 2005 as Instrument No. AT1017118 on title to the Lands.
9. Assignment of Undertaking to Insure dated December 20, 2005 from FNFC to Desjardins assigning FNFC's interest in the Canada Mortgage and Housing Corporation Undertaking to Insure No. 90-156-993.

10. General Security Agreement dated January 20, 2004 granted by Craiglee in favour of FNFC ("General Security Agreement").

Secured Party:	First National Financial Corporation
Debtor:	Craiglee Nursing Home Limited
Collateral:	Inventory, Equipment, Accounts, Other, Motor Vehicle
Registration Period:	32 years
File Reference No.:	079210305
Registration No.:	19951006 1449 0043 6475
Amendments:	20000929 1443 9065 2565 Assignment from Equitable Trust Company to First National Financial Corporation 20000929 1443 9065 2566 Renewal for 7 years

11. Assignment of General Security Agreement dated December 20, 2005 by FNFC to Desjardins, along with a registration under the *Personal Property Security Act* (Ontario) (the "PPSA") with the following registration particulars:

Secured Party:	Desjardins Financial Security Life Assurance Company - and - First National Financial Corporation
Debtor:	Craiglee Nursing Home Limited
Collateral:	Inventory, Equipment, Accounts, Other, Motor Vehicle
Registration Period:	32 years
File Reference No.:	079210305
Registration No.:	19951006 1449 0043 6475
Amendments:	20000929 1443 9065 2565 Assignment from Equitable Trust Company to First National Financial Corporation 20000929 1443 9065 2566 Renewal for 7 years 20051223 1129 1862 2606 Partial Assignment to Desjardins Financial Security Life Assurance Company 20051223 1130 1862 2608 Renewal for 21 years

12. Notice Under Section 71 of The Land Titles Act registered on January 22, 2004 as Instrument No. AT391094 on title to the Lands attaching an Assignment of Material Contracts and Agreements ("Assignment of Material Contracts") granted by Craiglee to FNFC.
13. Assignment of Assignment of Material Contracts dated December 20, 2005 granted by FNFC to Desjardins together with a Notice Under Section 71 of the Land Titles Act registered on December 21, 2005 as Instrument No. AT1017119 on title to the Lands.
14. Assignment of Undertaking to Insure dated December 20, 2005 granted by FNFC in favour of Desjardins re CMCH Undertaking to Insure No. 90-156-993.

15. Unlimited Guarantee and Postponement of Claim dated January 20, 2004 granted by Roy Washington McDougall and Doris May McDougall in favour of FNFC (the "Limited Guarantee").
16. Assignment of Nursing Home License dated January 20, 2004 granted by Craiglee in favour of FNFC.
17. Assignment of Nursing Home License dated December 20, 2005 granted by Craiglee in favour of Desjardins.
18. Escrow and Surrender Agreement re Nursing Home License between Craiglee and FNFC dated January 20, 2004.
19. Escrow and Surrender Agreement re Nursing Home License between Craiglee and Desjardins dated December 20, 2005.
20. Escrow and Surrender Agreement re Servicing Agreement between Craiglee and FNFC dated January 20, 2004.
21. Escrow and Surrender Agreement re Servicing Agreement between Craiglee and Desjardins dated December 20, 2005.
22. Undertaking dated January 20, 2004 from Craiglee, Roy Washington McDougall and Doris May McDougall regarding negative pledge with respect to shares of Craiglee.
23. Undertaking dated January 20, 2004 in favour of FNFC regarding, among other things, cost-overruns from Craiglee, Roy Washington McDougall and Doris May McDougall.
24. Undertaking dated January 20, 2004 in favour of Desjardins regarding, among other things, cost-overruns from Craiglee, Roy Washington McDougall and Doris May McDougall.
25. Priority Agreement between FNFC and Desjardins dated January 2004.
26. Electronic form of Second Charge/Mortgage ("Second Charge") in the principal amount of \$11,781,565.00 granted by Craiglee in favour of Desjardins registered on February 20, 2009 as Instrument No. AT2015651 on title to land known municipally as 9 & 11 Vanbrugh Avenue, Scarborough, Ontario and legally as PIN 06432-0409(LT) being the consolidation of various properties: firstly: part of lot 526, plan M388, designated as Part 3, Plan 66R20226, City of Toronto (collectively, the "Vanbrugh Lands").
27. Electronic form of Notice of Assignment of Rents – General granted by Craiglee in favour of Desjardins registered on February 20, 2009 as Instrument No. AT2015652 on title to the Vanbrugh Lands.

SCHEDULE "B"
SUMMARY OF SEARCHES

I. Craiglee Nursing Home Limited ("Craiglee")

We conducted searches in the Province of Ontario against Craiglee. Such searches were conducted under the statutes and in the offices described below and are current as of the dates outlined below:

Corporate

Jurisdiction:	Ontario
Status:	Active
Incorporation Date:	September 23, 1969
Amalgamation Date:	January 1, 2001
Corporation No.:	1456195
Registered Office Address:	102 Craiglee Drive Scarborough, Ontario M1N 2M7
Directors:	Roy Washington McDougall Celia Ann McDougall Doris May McDougall
Amalgamations:	<p><u>1st Amalgamation</u> – December 31, 1981 Craiglee Nursing Home Limited (Corporation No. 228047) Fair Fields Trailers Ltd. (Corporation No. 354190) Selby Estates Limited (Corporation No. 389588)</p> <p><u>2nd Amalgamation</u> – January 1, 2001 Craiglee Nursing Home Limited (Corporation No. 498622) Multi-Care Nursing Services Ltd. (Corporation No. 464796)</p>
Currency Date:	November 15, 2011

Bank Act (Canada) - Ontario

Canadian Securities Registration Systems' Confirmation Letter re *Bank Act* Security - Section 427 dated November 16, 2011 has been obtained reflecting that there were no registrations of Notices of Intention against the company names listed below as of November 15, 2011 under this statute:

- (A) Craiglee Nursing Home Limited;
- (B) Multi-Care Nursing Services Ltd.;
- (C) Fair Fields Trailers Ltd.; and
- (D) Selby Estates Limited.

Bankruptcy and Insolvency Act (Canada)

Searches conducted in Ontario on November 16, 2011 pursuant to the *Bankruptcy and Insolvency Act (Canada)* in the Office of the Superintendent of Bankruptcy, Industry Canada (current to November 10, 2011) disclosed the following registration in the Office of the Superintendent for all the Districts and Divisions in Canada:

Estate Number:	31-455914
Estate Name:	Craiglee Nursing Home Limited
Province:	Ontario
Address:	102 Craiglee Drive, Scarborough, Ontario M1N 2M7
Estate Type:	Receivership
Date of Proceeding:	April 28, 2009
Total Liabilities:	\$0.00
(as declared by Debtor)	
Total Assets:	\$0.00
(as declared by Debtor)	
Appointed Trustee or Administrator:	Deloitte & Touche Inc./Jim Cook

Searches conducted on November 16, 2011 pursuant to the *Bankruptcy and Insolvency Act (Canada)* in the Office of the Superintendent of Bankruptcy, Industry Canada (current to November 10, 2011) disclosed that no registrations appear against the company names listed below in the Office of the Superintendent for all the Districts and Divisions in Canada:

- (A) Multi-Care Nursing Services Ltd.;
- (B) Fair Fields Trailers Ltd.; and
- (C) Selby Estates Limited.

Execution Act (Ontario)

A certificate issued by the Sheriff of the City of Toronto dated November 16, 2011 disclosed the following filings:

- (A) Craiglee Nursing Home Limited
 - (i) Execution No. 08-0005721
 - Issue Date: June 24, 2008
 - Effective Date: June 25, 2008
 - Tribunal No.: 000000000000
 - Creditor: Workplace Safety and Insurance Board
 - Judgement: \$43,739.58
 - Interest Rate: 12.00%

- (ii) Execution No. 09-0003111
 Issue Date: March 30, 2009
 Effective Date: April 14, 2009
 Tribunal No.: 7430423 T753
 Court Type: Other
 Jurisdiction: MOR
 Creditor: Ministry of Revenue, Revenue Collections Branch
 Comments: \$17,250.05 and interest at a 7% per year compounded daily from March 26, 2009
- (iii) Execution No. 09-0005610
 Issue Date: March 2, 2009
 Effective Date: June 24, 2009
 Tribunal No.: ITA-2937-09
 Court Type: Other
 Jurisdiction: FED
 Creditor: Her Majesty the Queen, Collection Enforcement Officer, Toronto East Tax Services Office
 Comments: Court Fees for this Writ \$30.00
 Total \$926,549.26
 And also interest compounded daily at the rate prescribed under the *Income Tax Act* applicable from time to time on the sum of \$926,519.26 from February 26, 2009 to the day of payment; besides Sheriff's fees and costs of execution.
- (iv) Execution No. 09-0009234
 Issue Date: September 11, 2009
 Effective Date: September 25, 2009
 Tribunal No.: 101188191 TE0001
 Court Type: Other
 Jurisdiction: MOR
 Creditor: Ministry of Revenue, Revenue Collections Branch, Insolvency Unit
 Comments: \$367,819.48 and interest at 6% per year compounded daily on the sum of \$367,819.48 from September 11, 2009
- (B) Multi-Care Nursing Services Ltd. – No filings.
 (C) Fair Fields Trailers Ltd. – No filings.
 (D) Selby Estates Limited – No filings.

These are local searches and would only reveal any writs of execution filed in the Region or Municipality named therein.

Litigation

Searches conducted on November 16, 2011 for litigation claims filed with The Superior Court of Justice in Toronto revealed the following filings:

<u>FILE NUMBER</u>	<u>CASE OPENED DATE</u>	<u>CASE STATUS</u>	<u>PARTIES</u>	<u>CASE TYPE</u>	<u>LAST EVENT RESULT INFORMAT ION</u>	<u>LAST EVENT DATE</u>	<u>NOTES</u>
CV04CV26 24700000	January 22, 2004	Inactive	Staffson Management Inc. Craiglee Nursing Home Limited et al	CL Construction Lien	ODA – Order Dismissing Action	April 25, 2008	Craiglee Nursing Home Limited is a Defendant in this matter
CV04CV27 46350000	August 25, 2004	Inactive	EPI Fire Protection Inc. vs. Finn Electric Inc. et al	CL Construction Lien	NA	NA	Craiglee Nursing Home Limited is a Defendant in this matter
CV07CV33 12380000	April 16, 2007	Inactive	Skene, K. vs. Craiglee Nursing Home Ltd.	TPI Tort: Personal Injury (other than from MVA)	ODA Order – Dismissing Action	March 20, 2008	Craiglee Nursing Home Limited is a Defendant in this matter
CV0900372 1160000	February 10, 2009	Inactive	1677249 Ontario Inc. v. Craiglee Nursing Home Limited et al	CM Contract Law	ORCD – Order Case Dismissed	June 27, 2011	Craiglee Nursing Home Limited is a Defendant in this matter
CV0900380 1940000	June 4, 2009	Inactive	City of Toronto v. Craiglee Nursing Home Limited	ENP Enforcement of POA Certificate	NA	NA	Craiglee Nursing Home Limited is a Respondent in this matter

Bulk Sales Act (Ontario)

Searches conducted on November 16, 2011 for statements of creditors filed with the local registrar for the court in the City of Toronto against Craiglee Nursing Home Limited, Multi-Care Nursing Services Ltd., Fair Fields Trailers Ltd. and Selby Estates Limited did not reveal any such statements as of November 16, 2011. These searches are conducted five years back. These are local searches and would only reveal statements of creditors filed in the Region or municipality named therein.

Personal Property Security Act

Certificates obtained in Ontario pursuant to this statute revealed the registrations against Craiglee as of file currency dates shown under Schedule "C" attached hereto.

2. Doris May McDougall ("Doris")

We conducted searches in the Province of Ontario against Doris. Such searches were conducted under the statutes and in the offices described below and are current as of the dates outlined below:

Bankruptcy and Insolvency Act (Canada)

Searches conducted on November 16, 2011 pursuant to the *Bankruptcy and Insolvency Act* (Canada) in the Office of the Superintendent of Bankruptcy, Industry Canada (current to November 10, 2011) disclosed that no registrations appear against Doris in the Office of the Superintendent for all the Districts and Divisions in Canada.

Execution Act (Ontario)

A certificate issued by the Sheriff of the City of Toronto dated November 16, 2011 disclosed the following filings against Doris May McDougall:

- (i) Execution No. 11-0004965
 Issue Date: May 5, 2011
 Effective Date: May 9, 2011
 Tribunal No.: CV10-410956
 Court Type: SCJ-CIVIL
 Creditor: Desjardins Financial Security Life Assurance Company
 Judgement: \$12,049,040.47
 Costs: \$1,625.00
 Interest Rate: 7.13%

Litigation

Searches conducted on November 16, 2011 for litigation claims filed with The Superior Court of Justice in Toronto revealed the following filings:

<u>FILE NUMBER</u>	<u>CASE OPENED DATE</u>	<u>CASE STATUS</u>	<u>PARTIES</u>	<u>CASE TYPE</u>	<u>LAST EVENT RESULT INFORMATIO N</u>	<u>LAST EVENT DATE</u>	<u>NOTES</u>
CV100041095 60000	September 22, 2010	Inactive	Desjardins Financial Security Life Assurance Company v. McDougall et al	ME Mortgage or Charge	JU – Judgment	April 11, 2011	McDougall, Doris May and McDougall, Roy Washington are Defendants in this matter

Personal Property Security Act

Certificates obtained in Ontario pursuant to this statute revealed the registrations against Doris as of file currency dates shown under Schedule "C" to this summary.

3. Roy Washington McDougall ("Roy")

We conducted searches in the Province of Ontario against Roy. Such searches were conducted under the statutes and in the offices described below and are current as of the dates outlined below:

Bankruptcy and Insolvency Act (Canada)

Searches conducted on November 16, 2011 pursuant to the *Bankruptcy and Insolvency Act* (Canada) in the Office of the Superintendent of Bankruptcy, Industry Canada (current to November 10, 2011) disclosed that no registrations appear against Roy in the Office of the Superintendent for all the Districts and Divisions in Canada.

Execution Act (Ontario)

A certificate issued by the Sheriff of the City of Toronto dated November 16, 2011 disclosed the following filings against Roy Washington McDougall:

- (i) Execution No. 11-0004965
 Issue Date: May 5, 2011
 Effective Date: May 9, 2011
 Tribunal No.: CV10-410956
 Court Type: SCJ-CIVIL
 Creditor: Desjardins Financial Security Life Assurance Company
 Judgement: \$12,049,040.47
 Costs: \$1,625.00
 Interest Rate: 7.13%

Litigation

Searches conducted on November 16, 2011 for litigation claims filed with The Superior Court of Justice in Toronto revealed the following filings:

<u>FILE NUMBER</u>	<u>CASE OPENED DATE</u>	<u>CASE STATUS</u>	<u>PARTIES</u>	<u>CASE TYPE</u>	<u>LAST EVENT RESULT INFORMATION</u>	<u>LAST EVENT DATE</u>	<u>NOTES</u>
CV100041 09560000	September 22, 2010	Inactive	Desjardins Financial Security Life Assurance Company v. McDougall et al	ME Mortgage or Charge	JU – Judgment	April 11, 2011	McDougall, Doris May and McDougall, Roy Washington are Defendants in this matter

Personal Property Security Act

Certificates obtained in Ontario pursuant to this statute revealed the registrations against Roy as of file currency dates shown under Schedule "C" attached hereto.

SCHEDULE "C"

SUMMARY OF PPSA SEARCHES

1. **Name of Debtor:** Craiglee Nursing Home Limited
File Currency Date: November 14, 2011

SECURED PARTY		FILE NO./ REGISTRATION NO.	COLLATERAL CLASSIFICATION / DESCRIPTION	FINANCING CHANGE STATEMENTS
1.	First National Financial Corporation - and - Desjardins Financial Security Life Assurance Company	079210305/ 19951006 1449 0043 6475	Inventory, Equipment, Accounts, Other , Motor Vehicle GCD: General assignment of rents and general security agreement re: 96 and 102 Craiglee Drive, Scarborough, Ontario	20000929 1443 9065 2565 Assignment from Equitable Trust Company to First National Financial Corporation 20000929 1443 9065 2566 Renewal for 6 years 20051223 1129 1862 2606 Partial assignment to Desjardins Financial Security Life Assurance Company 20051223 1130 1862 2608 Renewal for 21 years
2.	Her Majesty the Queen as Represented by MOF (RST/EHT/CT)	612974196/ 20050228 1039 1031 9160	Inventory, Equipment, Accounts, Other Amount: \$376,000 GCD: CT# 7430-423 EHT# 111-251-712 MOF# 14601-90051 (535) 2005-02-28 EHT#118-523-667 EHT#111-251-712 EHT#111251712	20100216 1512 1031 9066 Amendment to increase amount of Nab to \$376,000.57 20100216 1519 1031 9068 Renewal for 5 years

SECURED PARTY		FILE NO./ REGISTRATION NO.	COLLATERAL CLASSIFICATION / DESCRIPTION	FINANCING CHANGE STATEMENTS
3.	Enercare Solutions Limited Partnership	646034499/ 20080612 1403 1462 9218	Equipment GCD: HVAC Equipment located at 102 Craiglee Dr. Toronto, ON, M1N 2M7 Amount: \$7,499	*Note: Craiglee Nursing Homes is shown as debtor 20090428 1404 1462 3507 Amendment to correct error in name of secured party "The Consumers' Waterheater Income Fund" to "Waterheater Operating Limited Partnership" 20110119 1704 1462 5107 Amendment -- secured party has changed its name from Waterheater Operating Limited Partnership to Enercare Solutions Limited Partnership 20110610 1406 1462 0783 Renewal for 3 years
4.	Desjardins Financial Security Life Assurance Company	652903866/ 20090422 1526 1862 5473	Inventory, Equipment, Accounts, Other	20090427 1042 1862 5675 Amendment to remove duplicate secured party so only one listing remains and to amend the collateral description to include inventory
5.	Enercare Solutions Limited Partnership	668952612/ 20110408 1403 1462 4417	Equipment, Other GCD: Heating boiler located at 102 Craiglee Dr. Toronto M1N 2M7 Amount: \$7,201 No Fixed Maturity Date	*Note: Craiglee Nursing Home Ltd. is shown as debtor
6.	Enercare Solutions Limited Partnership	668952486/ 20110408 1403 1462 4404	Equipment, Other GCD: Domestic boiler and 2 storage tanks located at 102 Craiglee Dr. Toronto, ON M1N 2M7 Amount: \$12,581 No Fixed Maturity Date	*Note: Craiglee Nursing Home Ltd. is shown as debtor
7.	Enercare Solutions Limited Partnership	670367232/ 20110602 1704 1462 8586	Equipment, Other GCD: Domestic boiler located at 102 Craiglee Dr, Toronto, ON M1N 2M7 Amount: \$9,701 No Fixed Maturity Date	*Note: Craiglee Nursing Homes is shown as debtor

2. **Name of Debtor:** Multi-Care Nursing Services Ltd.
File Currency Date: November 15, 2011

No registrations found.

3. **Name of Debtor:** Fair Fields Trailers Ltd.
File Currency Date: November 15, 2011

No registrations found.

4. **Name of Debtor:** Selby Estates Limited
File Currency Date: November 15, 2011

No registrations found.

5. **Name of Debtor:** Doris McDougall
File Currency Date: November 14, 2011

SECURED PARTY		FILE NO./ REGISTRATION NO.	COLLATERAL CLASSIFICATION/DESCRIPTION	FINANCING CHANGE STATEMENTS
1.	Honda Canada Finance Inc.	649894671/ 20081112 1942 1531 0360	Consumer Goods, Motor Vehicle Amount \$17,424; Maturity Date: November 8, 2012 2009 Honda Fit VIN# JHMGE88549S805322	*Note: Doris E. McDougall is shown as debtor (dob March 25, 1927)

6. **Name of Debtor:** Roy McDougall
File Currency Date: November 14, 2011

SECURED PARTY		FILE NO./ REGISTRATION NO.	COLLATERAL CLASSIFICATION / DESCRIPTION	FINANCING CHANGE STATEMENTS
1.	Honda Canada Finance Inc.	643498515/ 20080319 1949 1531 0198	Consumer Goods, Motor Vehicle Amount: \$33,375; Maturity Date: March 13, 2012 2008 Honda CRV VIN# 5J6RE485X8L809445	*Note: Lorna M. McDougall (dob August 4, 1962) and Roy W. McDougall (dob June 6, 1931) are shown as debtors.

SCHEDULE "D"

SUMMARY OF SUB-SEARCH OF TITLE

A. Description of Property: 9 & 11 Vanbrugh Avenue, Scarborough, Ontario

Municipal Address: 9 & 11 Vanbrugh Avenue, Scarborough, Ontario

Registered Owners: Craiglee Nursing Home Limited

Subsearch as of: November 16, 2011

Short Legal Description: Consolidation of various properties: Firstly: Part of Lot 526, Plan M388, designated as Part 1, Plan 66R20226; Secondly: Part of Lot 525, Plan M388, designated as Part 3, Plan 66R20226, City of Toronto

PIN Number: 06432-0409 (LT)

Registered Encumbrances:

- Application to Change Name of Owner from Multi-Care Nursing Services Ltd. to Craiglee Nursing Home Limited registered on January 29, 2001 as Instrument No. E389708
- Plan of Reference re Plan of Survey of lots 525 & 526, Plan 66M388, Scarborough, City of Toronto registered on February 18, 2003 as Instrument No. 66R20226
- Application to Consolidate registered on March 11, 2003 as Instrument No. AT118898
- Charge granted by Craiglee Nursing Home Limited in favour of Scotia Mortgage Corporation in the amount of \$126,000 registered on September 8, 2008 as Instrument No. AT1889172
- Charge granted by Craiglee Nursing Home Limited in favour of Desjardins Financial Security Life Assurance Company in the amount of \$11,781,565 registered on February 20, 2009 as Instrument No. AT2015651
- Notice of Assignment of Rents General granted by Craiglee Nursing Homes Limited in favour of Desjardins Financial Security Life Assurance Company registered on February 20, 2009 as Instrument No. AT2015652
- Charge granted by Craiglee Nursing Homes Limited in favour of Extendicare (Canada) Inc. in the amount of \$350,000 registered on March 6, 2009 as Instrument No. AT2025023

B. Description of Property: Craiglee Drive, Scarborough, Ontario Property

Municipal Address: 10 Sharpe Street, Scarborough, Ontario
 94 Craiglee Drive, Scarborough, Ontario
 96 Craiglee Drive, Scarborough, Ontario
 102 Craiglee Drive, Scarborough, Ontario

Registered Owners: Craiglee Nursing Home Limited

Subsearch as of: November 16, 2011

Short Legal Description: Consolidation of various properties Lots 508, 509, 510, 513, 514, 523, 524 on Plan M388; Part of Lot 526 on Plan M388 designated as Part 2 on Plan 66R20226, Part of Lot 525 on Plan M388 designated as Part 4 on Plan 66R20226; Part of Lot 512 being the Westerly 7 feet 10 inches on Plan M388; Lot 511 (except Part 1 on Plan 66R11153), Part of Lot 512, lying to the East of the Northerly 7 feet 10 inches on Plan M388; Scarborough, City of Toronto

PIN Number: 06432-0413 (LT)

Registered Encumbrances:

- Notice of Agreement with The Corporation of the Borough of Scarborough registered on November 30, 1972 as Instrument No. A375207
- Plan of Reference registered on July 26, 1979 as Instrument No. 66R11153
- Notice of Agreement with The Corporation of the Borough of Scarborough registered on May 27, 1980 as Instrument No. A853871
- Application to Change Name of Owner from Multi-Care Nursing Services Ltd. to Craiglee Nursing Home Limited registered on January 29, 2001 as Instrument No. E389708
- Notice of Agreement between Craiglee Nursing Home Limited and City of Toronto registered on September 20, 2002 as Instrument No. E603543
- Application (General) to Change Name of Owner from Craiglee Nursing Home Ltd to Craiglee Nursing Home Limited registered on September 27, 2002 as Instrument No. AT4936
- Plan of Reference re Plan of Survey of Lots 525 & 526, Plan 66M388, Scarborough, City of Toronto registered on February 18, 2003 as Instrument No. 66R20226
- Application to Consolidate registered on March 11, 2003 as Instrument No. AT118898
- Application to Consolidate registered on March 11, 2003 as Instrument No. AT118899
- Charge granted by Craiglee Nursing Home Limited in favour of First National Financial Corporation in the amount of \$11,781,565 registered on January 22, 2004 as Instrument No. AT391092
- Notice of Assignment of Rents General granted by Craiglee Nursing Home Limited in favour of First National Financial Corporation registered on January 22, 2004 as Instrument No. AT391093

- Notice attaching Assignment of Material Contracts and Agreements granted by Craiglee Nursing Home Limited in favour of First National Financial Corporation in the amount of \$11,781,565 registered on January 22, 2004 as Instrument No. AT391094
- Notice of Security Interest in the amount of \$11,781,565 registered on January 22, 2004 as Instrument No. AT391095
- Application to Consolidate registered December 19, 2005 as Instrument No. AT1014167
- Transfer of Charge referenced as Instrument No. AT391092 granted by First National Financial Corporation in favour of Desjardins Financial Security Life Assurance Company, registered on December 21, 2005 as Instrument No. AT1017117
- Notice of Assignment of Assignment of Rents General referenced as Instrument No. AT391093 granted by First National Financial Corporation in favour of Desjardins Financial Security Life Assurance Company registered on December 21, 2005 as Instrument No. AT1017118
- Notice under s. 71 of Land Titles Act attaching Assignment of Assignment of Material Contracts and Agreements granted by First National Financial Corporation to Desjardins Financial Security Life Assurance Company re Instrument No. AT391094 registered December 21, 2005 as Instrument No. AT1017119
- Notice of Security Interest by Desjardins Financial Security Life Assurance Company registered on December 21, 2005 as Instrument No. AT1017120
- Notice by Desjardins Financial Security Life Assurance Company registered to Craiglee Nursing Home Limited registered on December 23, 2005 as Instrument No. AT1019710
- Charge in the amount of \$350,000.00 granted by Craiglee Nursing Home Limited in favour of Extencare (Canada) Inc. registered March 6, 2009 as Instrument No. AT2025023

TAB P



December 14, 2012

Craiglee Nursing Home Limited.
 Attn: R. McDougall
 102 Craiglee Drive
 Scarborough, Ontario
 M1N 2M7

MORTGAGE STATEMENT

Mortgage No: 504680
Mortgagor(s): Craiglee Nursing Home Limited.
 Attn: R. McDougall
Property Address: 102 Craiglee Drive
 Scarborough, ON
Closing Date: December 14, 2012

Interest Rate	7.13%	Principal & Interest	81,790.00
Payment Frequency	Monthly	Property Tax	31,569.27
Maturity Date	January 1, 2026	Escrow	0.00
Next Payment Date	January 1, 2013	TOTAL PAYMENT	113,359.27

Principal Balance	\$ 10,484,843.31
Accrued Interest to December 14, 2012	33,349.97
Late Interest	3,097,223.85
Tax Account Balance - DEBIT (CREDIT)	(26,738.57)
Discharge Fee	550.00
Escrow Balance - DEBIT (CREDIT)	0.00
Outstanding Administration Fees	865.00
Suspense	0.00
Total Amount Required in Certified Funds by 1:00 p.m. on December 14, 2012	\$ 13,590,093.56

CONDITIONS

This statement is correct only if all payments up to and including **December 14, 2012** have been made and honoured and is subject to the correction of any errors or omissions. Should this transaction not close prior to the next payment due date then this statement will be void and First National Financial LP will require the **January 1, 2013** payment made and a new statement requested.

Should the mortgage be in arrears, the "Principal Balance" will be as at the due date of the last paid installment. All taxes and other charges paid by us from the time of preparation to the closing date and not indicated on this statement, are the responsibility of the mortgagor.

Funds received after 1 p.m. of the proposed discharge date will be subject to an additional daily interest charge of \$ 2,653.15 until paid. If the proposed discharge date is on Friday, funds received after 1:00 p.m. will be subject to additional interest until the next business day. **Please note the funds must be forwarded to the Toronto office.**

It is the responsibility of your office to ensure that the appropriate discharge documents are prepared and forwarded to First National Financial LP for execution by the requested security holder. This includes any applicable PPSA discharge documentation.

This statement is valid up to 5 days from the expected payout date. Should the Rate change prior to payout, then this statement will be void and a new statement issued to reflect the change in the interest rate.

First National Financial LP
 Commercial Mortgage Administration
 commercial@firstnational.ca

E. & O. E.

TAB Q

000205

Canada Revenue
AgencyAgence du revenu
du CanadaTORONTO EAST TAX SERVICES OFFICE
200 Town Centre Court,
Scarborough, Ontario M1P 4Y3**FAX**Date: December 15, 2011Number of pages including cover sheet: 3To: Daniel Weisz
Deloitte and Touche Inc.

Phone:

Fax
phone: 416-601-6690From: B. PanchalToronto East TSOPhone: 416-973-4043Fax
phone: 416-954-8263REMARKS: ☒ Urgent ☐ For your review ☐ Reply ASAP ☐ Please comment

As requested, please find attached a copy of the receiver/manager letter originally sent to your office November 23, 2009 regarding Craiglee Nursing Home Ltd. We look forward to your response regarding the payment of Canada Revenue Agency's deemed trust amounts.

Thank you

This fax document is directed solely to the persons named above. This fax transmission may contain protected client information that is not intended for unauthorized recipients. If you are not the addressee or an authorized representative thereof, please contact B. Panchal at 416-973-4043 and they will arrange for retrieval of the document. Any unauthorized use of this fax document by a person other than the intended addressee/recipient, is strictly forbidden. Thank you for your cooperation.

Ce document s'adresse uniquement aux personnes susmentionnées. Il pourrait contenir des renseignements protégés sur les clients qui ne sont pas destinés aux destinataires non autorisés. Si vous n'êtes pas le destinataire prévu ou son représentant autorisé, veuillez communiquer avec B. Panchal au 416-973-4043 afin que l'on puisse récupérer le document en question. Toute utilisation non autorisée de ce document par une personne autre que le destinataire prévu est strictement interdite. Merci de votre collaboration.

000206



Canada Revenue Agency
Agence du revenu
du Canada

000207

Tax Centre
Scarborough ON M1P 4Y3

November 23, 2009

ATTENTION: JIM COOK
DELOITTE AND TOUCHE INC.
200-1 CONCORDE GATE,
NORTH YORK ON M3C 4G4

Account Number
10118 8191 RP0001

Dear Mr. Cook:

Re: CRAIGLEE NURSING HOME LIMITED
Account number: 10118 8191 RP0001

We have been advised that you have been appointed Interim Receiver and Receiver/Manager for the above referenced corporation. At present there is an indebtedness to Canada Revenue Agency for employee source deductions amounting to \$1,120,729.45.

Particulars of this liability are as follows:

Date of Assessment	Tax Deductions	CPP	EI	Penalty & Interest	Total
20/09/07	0.00	20,355.26	18,226.05	167,813.65	206,394.96
25/03/07	54,720.72	28,118.38	13,326.41	15,753.94	111,919.45
21/09/09	644,579.70	31,768.98	15,906.08	110,169.28	802,415.04

Pursuant to the provisions of subsection 227(4) of the "Income Tax Act" of Canada, subsection 23(3) of the "Canada Pension Plan," subsection 57(2) of the "Unemployment Insurance Act" and subsection 86(2) of the "Employment Insurance Act," the following amounts, which are included in the above totals, are trust funds and form no part of the property, business, or estate of CRAIGLEE NURSING HOME LIMITED in receivership.

Income Tax Federal	Income Tax Provincial	CPP Employee Portion	EI Employee Portion	Total
688,651.97	30,739.45	29,943.68	13,559.60	\$742,794.70

Payment of the total amount of this trust, namely \$742,794.70 should be made to the Receiver General out of the realization of

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Collections/Compliance Centre
200 Town Centre Court
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Scarborough ON M1P 4Y3

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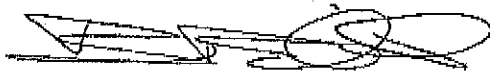
- 2 - Acct No: 10118 8191 RP0001

any property that is subject to these statutory trusts in priority to all other creditors. Please forward payment by return mail. In the event this is not possible, please indicate when payment will be forthcoming.

Please advise when payment of the remaining balance of \$377,934.75 plus interest to date of payment may be forthcoming. Your attention is drawn to section 159 of the "Income Tax Act," subsection 23(5) of the "Canada Pension Plan," subsection 57(4.1) of the "Unemployment Insurance Act" and subsection 86(4) of the "Employment Insurance Act."

This letter also serves as notice that should payment be made of any amount described in subsection 153(1) of the "Income Tax Act" for periods prior or subsequent to your appointment, tax deductions must be withheld and remitted in accordance with this subsection and Income Tax Regulations 101 and 108. Your attention is also directed to section 3 of the "Unemployment Insurance Act" (Collection of Premiums) Regulations, section 5 of the "Employment Insurance Act" and section 8 of the "Canada Pension Plan" Regulations.

Yours truly,



B. Panchal (1261)
Resource-Complex Case