

**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

**BETWEEN:**

**DESJARDINS FINANCIAL SECURITY LIFE  
ASSURANCE COMPANY**

Applicant

- and -

**CRAIGLEE NURSING HOME LIMITED**

Respondent

**MOTION RECORD  
Returnable November 9, 2011**

November 3, 2011

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

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**Chad Kopach** (LSUC #48084G)  
(416)-593-1221 (Tel)  
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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

**TO: see Service List at Schedule "A"**

## **SCHEDULE "A"**

### **SERVICE LIST**

**TO:** **Craiglee Nursing Home Limited**  
c/o Roy McDougall  
1790 Rosebank Drive  
Pickering, ON L1V 1P6

**AND TO:** **Roy McDougall**  
3650 Kingston Road, #809  
Toronto, ON M1M 1R9

**AND TO:** **Celia McDougall**  
3650 Kingston Road, #809  
Toronto, ON M1M 1R9

**AND TO:** **Doris McDougall**  
3650 Kingston Road, #809  
Toronto, ON M1M 1R9

**AND TO:** **Sack Goldblatt Mitchell**  
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Toronto ON M5G 2G8

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

Lawyers for Service Employees International Union, Local 1.0n and  
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**AND TO:** **Ministry of Finance, Insolvency Unit**  
33 King Street West  
6<sup>th</sup> 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: The City of Toronto**  
Litigation Section, Legal Services Division  
26<sup>th</sup> Floor, Metro Hall, Station 1260  
55 John Street  
Toronto, Ontario M5V 3C6

**Attn: Christopher J. Henderson**  
Tel: (416) 397-7106  
Fax: (416) 392-1199

**AND TO: Ministry of Health & Long Term Care**  
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Ministry of the Attorney General  
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Tel: 416-326-4082  
Fax: 416-326-4181

**AND TO: Scotia Mortgage Corporation**  
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8<sup>th</sup> Floor  
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**Attn: Sherry Hanlon**  
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Fax: (416) 866-7767

**AND TO: Dickinson Wright LLP**  
Ernst & Young Tower  
222 Bay Street  
P.O. Box 124 STN.  
18<sup>th</sup> Floor  
Toronto ON M5K 1H1

**Attn: Lisa Corne**  
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**AND TO: Wilson Vukelich LLP**  
Valleywood Corporate Centre  
60 Columbia Way, Suite 710  
Markham, Ontario  
Canada L3R 0C9

**Attn: Chris Caruana**  
Tel: (905) 944-2952  
Fax: (905) 940-8785

**AND TO: Miller Thomson LLP**  
One London Place  
255 Queens Avenue, Suite 2010  
London, Ontario N6A 5R8

**Attn: Alissa Mitchell**  
Tel: (519) 931-3510  
Fax: (519) 858-8511

Lawyers for SAC 4 Inc.

# INDEX

**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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BETWEEN:

**DESJARDINS FINANCIAL SECURITY LIFE  
ASSURANCE COMPANY**

Applicant

- and -

**CRAIGLEE NURSING HOME LIMITED**

Respondent

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# **TAB 1**

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

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

BETWEEN:

DESJARDINS FINANCIAL SECURITY LIFE  
ASSURANCE COMPANY

Applicant

- and -

CRAIGLEE NURSING HOME LIMITED

Respondent

NOTICE OF MOTION

DELOITTE & TOUCHE INC., Interim Receiver and Receiver and Manager (the  
“Receiver”) over all of the current and future assets, undertakings and properties (the “Assets”) of the Respondent (“Craiglee”), will make a motion to a judge on Wednesday the 9<sup>th</sup> day of November, 2011, at 10:00 a.m. or as soon after that time as the motion can be heard at 330 University Avenue, Toronto.

THE MOTION is to be heard orally.

**THE MOTION IS FOR:**

1. Orders substantially in the form attached hereto as **Schedule "A"** and **Schedule "C"**:
  - (a) abridging the time for and validating service of this Notice of Motion and the motion materials filed in support of this motion, and dispensing with further service thereof;
  - (b) confirming and approving the actions and activities of the Receiver with respect to the Craiglee receivership (the **"Receivership"**) to November 2, 2010;
  - (c) approving and accepting the Receiver's Interim Statements of Receipt and Disbursements for the period from April 28, 2009, to October 27, 2011;
  - (d) 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 for the period from July 1, 2010 to September 30, 2011, as set out in the Second Report of the Receiver dated November 2, 2011 (the **"Second Report"**);
  - (e) approving the sale by the Receiver to SAC 4 Inc. (**"SAC 4"**, or the **"Purchaser"**) of the assets, undertaking and properties of Craiglee constituting the Craiglee nursing home (the **"Craiglee Nursing Home"**) located at 102 Craiglee Avenue, Toronto and the property municipally known as 9 Vanbrugh Avenue, Toronto (collectively the **"Purchased Assets"**), as more particularly described in an Agreement of Purchase and Sale (the **"APS"**) between the Receiver and SAC 4 as purchaser (the **"Transaction"**);
  - (f) providing for the vesting of the Purchased Assets in SAC 4 free and clear of all encumbrances except those specifically permitted under the APS;
  - (g) sealing an unredacted version of the APS, pending the successful completion of the SAC 4 Transaction;

- (h) precluding the City of Toronto from adding to the tax rolls relating to Craiglee's real property (the "**Real Property**") any amounts now owing or subsequently determined to be owing by Craiglee 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**"), but still allowing the City of Toronto to advance a claim in respect of the City Claims against the net proceeds of the Transaction;
- (i) precluding the Ontario Ministry of Health and Long-Term Care (the "**MOH**") 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 Craiglee prior to April 28, 2009 (collectively, the "**MOH Claims**"), but still allowing the MOH to advance a claim in respect of the MOH Claims against the net proceeds of the Transaction;
- (j) directing the Receiver to hold in trust from the net proceeds of the Transaction an amount sufficient to satisfy the City Claims and the MOH Claims made 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;
- (k) the costs of this motion on a substantial indemnity basis; and
- (l) such further and other relief as this Honourable Court may deem just.

2. Declarations that:
  - (a) Craiglee's liability to the City of Toronto for pre-Receivership water, sewage and/or solid waste charges relating to the Real Property, including penalties and interest, ranks behind Craiglee's secured creditors in terms of priority; and
  - (b) Craiglee's liability to the MOH for any pre-receivership overpayments to Craiglee, ranks behind Craiglee's secured creditors in terms of priority.
3. an Order that the City of Toronto refund Craiglee for payments totalling approximately \$21,307.91 made in error post-Receivership, in respect of pre-Receivership water utility arrears relating to the Purchased Assets.

**THE GROUNDS FOR THE MOTION ARE:**

1. the Receiver has operated the Craiglee Nursing Home in a prudent and sustainable manner since its appointment on April 28, 2009;
2. by Order of the Honourable Justice Newbould dated September 1, 2010, the Receiver was authorized and directed to undertake a marketing and sale process for the sale of the Purchased Assets and to engage John A. Jensen Realty Inc. ("**Jensen**") as its real estate broker for this process, all as described in the Receiver's First Report to the Court dated July 30, 2010;
3. in response to the listing with Jensen, SAC 4 submitted an offer to purchase the Purchased Assets and on or about April 1, 2011, the Receiver and SAC 4 entered into the APS;
4. based on the efforts to market and sell the Purchased Assets; independent appraisals obtained by the Receiver; and the results of the listing of the Purchased Assets with

Jensen, the Receiver is of the view that the Transaction represents the highest and best realization available in respect of the Purchased Assets and is commercially reasonable;

5. the Transaction and APS are acceptable to the Applicant;
6. Rule 3.02 of the *Rules of Civil Procedure*;
7. as further set out in the Second Report and the exhibits thereto; and
8. such further and other grounds as counsel may advise and this Honourable Court may permit.

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

1. the Second Report of the Receiver dated November 2, 2011, and the appendices attached thereto;
2. the Affidavit of Hartley Bricks sworn October 31, 2011, and the exhibit attached thereto;
3. the Affidavit of Chad Kopach sworn November 3, 2011, and the exhibits attached thereto; and

4. such further and other evidence as counsel may advise and this Honourable Court may permit.

November 3, 2011

**BLANEY McMURTRY LLP**

Barristers and Solicitors  
1500 - 2 Queen Street East,  
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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

**TO:** see Service List at Schedule "A"

# **TAB A**



## SCHEDULE "A"

FORM OF APPROVAL AND VESTING ORDER  
(SECTION 4.3)

## APPROVAL AND VESTING ORDER ON STANDARD TERMS

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

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE

)

DAY, THE 9TH

JUSTICE ●

)

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. (the "**Purchaser**") 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 the Purchaser 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 Second Report and on hearing the submissions of counsel for the Receiver, ● <Insert names of other parties appearing.>, 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 2, 2011, filed:

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 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 the unredacted copy of the APS, 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 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, 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**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule** ) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. 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.

6. 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**"). In addition, any such City Claims shall be determined on the same basis that they would have been had the City moved prior to this Approval and Vesting Order to:

- (a) Seek a determination that the Order of Justice Campbell dated April 29, 2009 would not have prohibited the City from adding the amount(s) sought in the City Claims to the municipal tax roll of the Debtor's Real Property as of right;
- (b) Seek leave to add the amount(s) sought in the City Claims to the municipal tax roll of the Debtor's Real Property; and/or
- (c) Seek to vary or amend the Order of Justice Campbell dated April 29, 2009 such that the City would not have been prohibited from adding the amount(s) sought in the City Claims to the municipal tax roll of the Debtor's Real Property as of right.

7. THIS COURT ORDERS AND DECLARES that, following the vesting of the Purchased Assets in the Purchaser, the Ontario Ministry of Health and Long-Term Care (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.

8. 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.

9. 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.

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

11. 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.

12. THIS COURT ORDERS that, notwithstanding:

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

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be

deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at under value or other challengeable or voidable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

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

14. 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.

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## SCHEDULE A

## FORM OF RECEIVER'S CERTIFICATE

Court File No. CV-09-8156-00CL ●

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

BETWEEN:

● DESJARDINS FINANCIAL SECURITY LIFE  
ASSURANCE COMPANY

Applicant

● CRAIGLEE NURSING HOME LIMITED

Respondent

## RECEIVER'S CERTIFICATE

## RECITALS

- A. Pursuant to an Order of the Honourable Justice Campbell of the Ontario Superior Court of Justice (the "**Court**") dated April 28, 2009, Deloitte & Touche Inc. was appointed as the interim receiver and receiver and manager (the "**Receiver**") of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited (the "**Debtor**").
- B. Pursuant to an Order of the Court dated ●, the Court approved the agreement of purchase and sale made as of April 1, 2011, as amended from time to time (the "**APS**") between the Receiver and SAC 4 Inc. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section 4 of the APS have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction contemplated by the APS has been completed to the satisfaction of the Receiver.
- C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the APS.

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

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.

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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	33 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	3 years	
Reg Type	Secured Party(ies)	Debtor(s)	Registration#	Coll Classif
PPSA	THE CONSUMERS' WATERHEATER INCOME 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	Period	
652903866	22 Apr 2009	22 Apr 2019	10 years	

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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			
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	
670367232	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			

## 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.

# TAB B

SCHEDULE "A"

000019

FORM OF APPROVAL AND VESTING ORDER  
(SECTION 4.3)

APPROVAL AND VESTING ORDER ON STANDARD TERMS

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

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

THE HONOURABLE \_\_\_\_\_ )  
JUSTICE \_\_\_\_\_ )  
WEEKDAY, THE #  
DAY OF MONTH, 20YR

BETWEEN:

**PLAINTIFF**

Plaintiff

THE HONOURABLE \_\_\_\_\_ )  
JUSTICE ( )  
DAY, THE 9TH  
DAY OF NOVEMBER, 2011

BETWEEN:

DESJARDINS FINANCIAL SECURITY LIFE  
ASSURANCE COMPANY

Applicant

- and -

**DEFENDANT**

Defendant

CRAIGLEE NURSING HOME LIMITED

Respondent

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by [RECEIVER'S NAME] Deloitte & Touche Inc. in its capacity as the Court-appointed interim receiver and receiver and manager (the "Receiver") of the

~~undertaking, property~~current and future assets of [DEBTOR], 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 "Sale Agreement" "APS") between the Receiver and ~~[NAME OF~~  
~~PURCHASER]~~SAC 4 Inc. (the "[Purchaser"] dated ~~[DATE]~~made as of April 1, 2011 and  
appended to the Second Report of the Receiver dated ~~[DATE]~~November 2, 2011 (the  
"Second Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to  
the assets described in the ~~Sale Agreement~~APS (the "Purchased Assets"), was heard this  
day at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report and on hearing the submissions of counsel for the  
Receiver, ~~[NAMES OF OTHER PARTIES APPEARING]~~<Insert names of other parties  
appearing>, no one appearing for any other person on the service list, although properly served  
as appears from the affidavit of ~~[NAME]~~Sharm Velvet Sowa sworn ~~[DATE]~~November 2, 2011,  
filed<sup>1</sup>:

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 AND DECLARES that the Transaction is hereby approved,<sup>2</sup>  
and ~~the~~ and that the APS is commercially reasonable and in the best interests of the Debtor and  
its stakeholders. The execution of the ~~Sale Agreement~~APS by the Receiver<sup>3</sup> is hereby

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<sup>1</sup> This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting  
order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances  
warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.

<sup>2</sup> In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the  
Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be  
necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's  
endorsement.

<sup>3</sup> In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the  
Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor  
and the Receiver to execute and deliver documents, and take other steps.

authorized and approved, ~~with such minor amendments as the Receiver may deem necessary.~~  
~~The~~ 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 the unredacted copy of the APS, 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 shall be unsealed.

4. 2.-THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the "Receiver's Certificate"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the ~~Sale Agreement [and listed on Schedule B hereto]~~<sup>4</sup> APS shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims"<sup>5</sup>) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice ~~[NAME]~~ Campbell dated ~~[DATE]~~ 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", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule D**) and, for greater certainty, this Court orders that all of the Encumbrances

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<sup>4</sup> ~~To allow this Order to be free-standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

<sup>5</sup> ~~The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.~~



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

5. ~~3-~~ THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] Toronto of a Transfer/Deed of Land in the form prescribed by the *Land Registration Reform Act (Ontario)* duly executed by the Receiver, ~~[[Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*]~~<sup>6</sup>, 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.

6. 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"). In addition, any such City Claims shall be determined on the same basis that they would have been had the City moved prior to this Approval and Vesting Order to:

- (a) Seek a determination that the Order of Justice Campbell dated April 29, 2009 would not have prohibited the City from adding the amount(s) sought in the City Claims to the municipal tax roll of the Debtor's Real Property as of right;
- (b) Seek leave to add the amount(s) sought in the City Claims to the municipal tax roll of the Debtor's Real Property; and/or
- (c) Seek to vary or amend the Order of Justice Campbell dated April 29, 2009 such that the City would not have been prohibited from adding the amount(s) sought in the City Claims to the municipal tax roll of the Debtor's Real Property as of right.

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<sup>6</sup> ~~Elect the language appropriate to the land registry system (Registry vs. Land Titles).~~

7. THIS COURT ORDERS AND DECLARES that, following the vesting of the Purchased Assets in the Purchaser, the Ontario Ministry of Health and Long-Term Care (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.

8. 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.

9. 4.-THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the ~~net proceeds<sup>7</sup> from the sale of the Purchased Assets~~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 from the sale of the Purchased Assets~~Net Proceeds with the same priority as they had with respect to the Purchased Assets immediately prior to the sale<sup>8</sup>, 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.

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

11. 6.-THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the

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<sup>7</sup> ~~The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".~~

<sup>8</sup> ~~This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~

~~Company Debtor's~~ records pertaining to the Debtor's past and current employees, including personal information of ~~those employees listed on Schedule "•" to the Sale Agreement, 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.

12. ~~7.~~ THIS COURT ORDERS that, notwithstanding:

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

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

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

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



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Schedule A—~~Form of Receiver's Certificate~~A

FORM OF RECEIVER'S CERTIFICATE

Court File No. ———CV-09-8156-00CL ●

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

~~BETWEEN:~~

PLAINTIFF

Plaintiff

~~—and—~~

DEFENDANT

Defendant

BETWEEN:

● DESJARDINS FINANCIAL SECURITY LIFE  
ASSURANCE COMPANY

Applicant

● CRAIGLEE NURSING HOME LIMITED

Respondent

RECEIVER'S CERTIFICATE

RECITALS

- A. Pursuant to an Order of the Honourable ~~[DATE OF JUDGE]~~Justice Campbell of the Ontario Superior Court of Justice (the "Court") dated ~~[DATE OF ORDER]~~, ~~[NAME OF RECEIVER]~~April 28, 2009, Deloitte & Touche Inc. was appointed as the interim receiver and receiver and manager (the "Receiver") of the undertaking, property current and future assets of [DEBTOR], undertakings and properties of Craiglee Nursing Home Limited (the "Debtor").

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- B. Pursuant to an Order of the Court dated [DATE]●, the Court approved the agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "Sale Agreement" April 1, 2011, as amended from time to time (the "APS") between the Receiver [Debtor] and [NAME OF PURCHASER] SAC 4 Inc. (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section ●4 of the Sale Agreement APS have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction contemplated by the APS has been completed to the satisfaction of the Receiver.
- C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement APS.

THE RECEIVER CERTIFIES the following:

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

[NAME OF RECEIVER], DELOITTE & TOUCHE INC., solely in its capacity as Receiver of the undertaking, property court appointed interim receiver and receiver and manager of the current and future assets of [DEBTOR], undertakings and properties of Craiglee Nursing Home Limited and not in its personal capacity

Per:

Schedule B

Schedule B — Purchased Assets —

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**

**Schedule C — Claims to be deleted and expunged from title to Real Property**

**CLAIMS**

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

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

4. 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").
5. Instrument No. AT391093 registered January 22, 2004, being a Notice of Assignment of Rents - General relating to the First National Charge.
6. Instrument No. AT391094 registered January 22, 2004, being a Notice of Assignment of Material Contracts and Agreements relating to the First National Charge.
7. Instrument No. AT391095 registered January 22, 2004, being a Notice of Security Interest relating to the First National Charge.
8. 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").
9. Instrument No. AT1017118 registered December 21, 2005, being a Notice of Assignment of Rents - General relating to the Transfer of the First National Charge.
10. 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.
11. Instrument No. AT1017120 registered December 21, 2005, being a Notice of Security Interest relating to the Transfer of the First National Charge.
12. Instrument no. AT1019710 registered December 23, 2005, being a Notice of an Agreement Amending the First National Charge.
13. 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:

14. 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.



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15. 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").
16. Instrument No. AT2015651 registered February 20, 2009, being a Notice of Assignment of Rents - General relating to the Desjardins Charge.
17. 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)

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

<u>File#</u>	<u>Creation Date</u>	<u>Expiry Date</u>	<u>Period</u>					
<b>079210305</b>	<b>6 Oct 1995</b>	<b>6 Oct 2028</b>	<b>33 years</b>					
<u>Reg Type</u>	<u>Secured Party(ies)</u>	<u>Debtor(s)</u>	<u>Registration#</u>	<u>Coll Classif</u>				
<b>PPSA</b>	<b>THE EQUITABLE TRUST COMPANY</b>	<b>CRAIGLEE NURSING HOME LIMITED</b>	<b>19951006 1449 0043 6475</b>	<b>I</b>	<b>E</b>	<b>A</b>	<b>O</b>	<b>MV</b>
<b>Partial Assignment</b>	<b>DESJARDINS FINANCIAL SECURITY LIFE ASSURANCE COMPANY (Assignee)</b> <b>(Assignee)</b>		<b>20051223 1129 1862 2606</b>					
<u>File#</u>	<u>Creation Date</u>	<u>Expiry Date</u>	<u>Period</u>					
<b>612974196</b>	<b>28 Feb 2005</b>	<b>28 Feb 2015</b>	<b>10 years</b>					
<u>Reg Type</u>	<u>Secured Party(ies)</u>	<u>Debtor(s)</u>	<u>Registration#</u>	<u>Coll Classif</u>				
<b>PPSA</b>	<b>HER MAJESTY THE QUEEN AS REPRESENTED BY MOF (RST/EHT/CT)</b>	<b>CRAIGLEE NURSING HOME LIMITED</b>	<b>20050228 1039 1031 9160</b>	<b>I</b>	<b>E</b>	<b>A</b>	<b>O</b>	
<u>File#</u>	<u>Creation Date</u>	<u>Expiry Date</u>	<u>Period</u>					
<b>646034499</b>	<b>12 Jun 2008</b>	<b>12 Jun 2014</b>	<b>3 years</b>					
<u>Reg Type</u>	<u>Secured Party(ies)</u>	<u>Debtor(s)</u>	<u>Registration#</u>	<u>Coll Classif</u>				
<b>PPSA</b>	<b>THE CONSUMERS' WATERHEATER INCOME FUND</b>	<b>CRAIGLEE NURSING HOMES</b>	<b>20080612 1403 1462 9218</b>		<b>E</b>			
	<b>General Collateral</b>	<b>HVAC EQUIPMENT LOCATED AT 102 CRAIGLEE DR. TORONTO, ONTARIO M1N 2M7</b>						
<u>File#</u>	<u>Creation Date</u>	<u>Expiry Date</u>	<u>Period</u>					
<b>652903866</b>	<b>22 Apr 2009</b>	<b>22 Apr 2019</b>	<b>10 years</b>					
<u>Reg Type</u>	<u>Secured Party(ies)</u>	<u>Debtor(s)</u>	<u>Registration#</u>	<u>Coll Classif</u>				
<b>PPSA</b>	<b>DESJARDINS FINANCIAL SECURITY LIFE ASSURANCE COMPANY</b>	<b>CRAIGLEE NURSING HOME LIMITED</b>	<b>20090422 1526 1862 5473</b>		<b>E</b>	<b>A</b>	<b>O</b>	
	<b>DESJARDINS FINANCIAL SECURITY LIFE ASSURANCE</b>							

000032

	<u>COMPANY</u>								
<u>File#</u>	<u>Creation Date</u>	<u>Expiry Date</u>	<u>Period</u>						
<b>668952486</b>	<b>8 Apr 2011</b>	<b>8 Apr 2014</b>	<b>3 years</b>						
<u>Reg Type</u>	<u>Secured Party(ies)</u>	<u>Debtor(s)</u>	<u>Registration#</u>	<u>Coll Classif</u>					
<b>PPSA</b>	<b>ENERCARE SOLUTIONS</b>	<b>CRAIGLEE NURSING</b>	<b>20110408 1403 1462 4404</b>		<b>E</b>		<b>O</b>		
	<b>LIMITED PARTNERSHIP</b>	<b>HOME LTD</b>							
	<u>General</u>	<u>DOMESTIC BOILER AND 2 STORAGE TANKS LOCATED AT 102 CRAIGLEE DR.</u>							
	<u>Collateral</u>	<u>TORONTO ON M1N2M7</u>							
<u>File#</u>	<u>Creation Date</u>	<u>Expiry Date</u>	<u>Period</u>						
<b>668952612</b>	<b>8 Apr 2011</b>	<b>8 Apr 2014</b>	<b>3 years</b>						
<u>Reg Type</u>	<u>Secured Party(ies)</u>	<u>Debtor(s)</u>	<u>Registration#</u>	<u>Coll Classif</u>					
<b>PPSA</b>	<b>ENERCARE SOLUTIONS</b>	<b>CRAIGLEE NURSING</b>	<b>20110408 1403 1462 4417</b>		<b>E</b>		<b>O</b>		
	<b>LIMITED PARTNERSHIP</b>	<b>HOME LTD.</b>							
	<u>General</u>	<u>HEATING BOILER LOCATED AT 102 CRAIGLEE DR. TORONTO M1N2M7</u>							
	<u>Collateral</u>								
<u>File#</u>	<u>Creation Date</u>	<u>Expiry Date</u>	<u>Period</u>						
<b>670367232</b>	<b>2 June 2011</b>	<b>2 June 2014</b>	<b>3 years</b>						
<u>Reg Type</u>	<u>Secured Party(ies)</u>	<u>Debtor(s)</u>	<u>Registration#</u>	<u>Coll Classif</u>					
<b>PPSA</b>	<b>ENERCARE SOLUTIONS</b>	<b>CRAIGLEE NURSING</b>	<b>20110602 1704 1462 8586</b>		<b>E</b>		<b>O</b>		
	<b>LIMITED PARTNERSHIP</b>	<b>HOMES</b>							
	<u>General</u>	<u>DOMESTIC BOILER LOCATED AT 102 CRAIGLEE DR. TORONTO M1N2M7</u>							
	<u>Collateral</u>								

Schedule DPERMITTED ENCUMBRANCES, EASEMENTS AND RESTRICTIVE COVENANTSRELATED 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:

18. 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).
19. Instrument No. A375207 registered November 30, 1972, being an agreement in favour of the Borough.
20. Instrument No. A853871 registered May 27, 1980, being an agreement in favour of the Borough.
21. Instrument No. E603543 registered September 20, 2002, being an agreement in favour of the City of Toronto (the "City").
22. Instrument No. AT118898 registered March 11, 2003, being an Application to Consolidate Parcels.
23. Instrument No. AT118899 registered March 11, 2003, being an Application to Consolidate Parcels.
24. 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):

25. 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).
26. Instrument No. AT118898 registered March 11, 2003, being an Application to Consolidate Parcels.

Document comparison by Workshare Professional on November 04, 2011 10:16:15 AM

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Description	model_approval_and_vesting_order
Document 2 ID	file:///I:\Users\EGOLDEN\FILE\WORD\Desjardins\CRAIGL EE - McDougall\pleadings\Orders\Approval and Vesting Order Nov 3 2011 v7.doc
Description	Approval and Vesting Order Nov 3 2011 v7
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Insertions	363
Deletions	201
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Style change	0
Format changed	0
Total changes	564

# TAB C

## SCHEDULE "C"

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

ONTARIO  
SUPERIOR COURT OF JUSTICE  
[COMMERCIAL LIST]THE HONOURABLE MR.  
JUSTICE)  
)  
)WEDNESDAY, THE 9<sup>th</sup> DAY  
OF NOVEMBER, 2011

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 **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 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 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 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.

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# TAB 2

**000038**

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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<b>APPENDIX "A":</b>	<b>Appointment Order dated April 28, 2009</b>
<b>APPENDIX "B":</b>	<b>First Report of the Receiver dated July 30, 2010 (without appendices)</b>
<b>APPENDIX "C":</b>	<b>Sale Process Order dated September 1, 2010</b>
<b>APPENDIX "D":</b>	<b>Resident Quality Inspection report dated October 20, 2011</b>
<b>APPENDIX "E":</b>	<b>Income Statement by Envelope for the period January 1, 2010 to December 31, 2010</b>
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<b>APPENDIX "H":</b>	<b>City of Toronto Utility Bill for the period November 17, 2010 to December 17, 2010</b>
<b>APPENDIX "I":</b>	<b>E-mail correspondence between Blaneys and the City of Toronto's solicitor between April 6, 2011 and June 17, 2011</b>
<b>APPENDIX "J":</b>	<b>E-mail correspondence from the City of Toronto's solicitor dated June 9, 2011 and Blaneys response dated June 14, 2011</b>
<b>APPENDIX "K":</b>	<b>APS between the Receiver and SAC 4 Inc. dated April 1, 2011, as amended</b>
<b>APPENDIX "L":</b>	<b>Receiver's Interim Statement of Receipts and Disbursements for the period April 28, 2009 to October 27, 2011</b>

## 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 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 2<sup>nd</sup> 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

# 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 28<sup>th</sup> 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;

(c) to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;

*subject to section 11 of the Missing Homes Act, R.S.O. 1990, c. X1.7 (the "MHA")*

*PLG*

*Phlo*

- subject to section 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~~

24  
[Signature]

[Signature]

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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 ~~Extendicare~~ 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.. *Also*

#### 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. *Also*

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. *(and my party the Receiver retains under paragraph 3(d) of this Order including without limitation Extendicare)*  
*Also*

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 Extendicare except with the written consent of the Receiver or Extendicare 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

*Extendicare (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, <sup>MOH</sup> ~~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.~~ <sup>MOH</sup>

#### 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, <sup>for extension MOH</sup> 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 Extendicare 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.

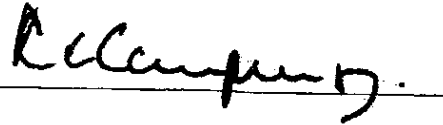
28. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, 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.



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

APR 28 2009

PER / PAR: 

## 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  
6<sup>th</sup> 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  
9<sup>th</sup> 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  
8<sup>th</sup> 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 28<sup>th</sup> 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

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# 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 22<sup>nd</sup> 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 [REDACTED] 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 [REDACTED] 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, [REDACTED] 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"**.

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**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 "LEHN"), 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

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WEDNESDAY, THE 1<sup>ST</sup> 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),



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DESJARDINS FINANCIAL SECURITY LIFE ASSURANCE COMPANY

Applicant

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

and

CRAIGLEE NURSING HOME LIMITED

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

**Ministry of Health  
and Long-Term Care**

Health System Accountability and  
Performance Division  
Performance Improvement and Compliance Branch  
Ottawa Service Area Office

347 Preston St., 4<sup>th</sup> Floor  
Ottawa ON K1S 3J4  
Telephone: 613-569-5602  
Facsimile: 613-569-9670

**Ministère de la Santé  
et des Soins de longue durée**

Division de la responsabilisation et de la  
performance du système de santé  
Direction de l'amélioration de la performance  
et de la conformité  
Bureau régional de services de Ottawa

347, rue Preston, 4<sup>ième</sup> étage  
Ottawa ON K1S 3J4  
Téléphone: 613-569-5602  
Télécopieur: 613-569-9670



October 20, 2011

Ms. Angie Heinz  
Administrator  
Craiglee Nursing Home  
102 Craiglee Drive  
Scarborough ON M1N 2M7

Dear Ms. Heinz:

Please find enclosed the **Inspection Report-Public Copy** for an inspection conducted on August 29 – 31, September 1, 2, 6 – 9, 12 – 14, 20 – 22, 27 and October 3, 2011 under the *Long-Term Care Homes Act, 2007* (LTCHA) for the purpose of ensuring compliance with requirements under the LTCHA.

This inspection report must be posted in the home, in a conspicuous and easily accessible location in accordance with the LTCHA, 2007, S.O. 2007, c.8, s.79 (1) and (2).

A copy of the **Inspection Report-Public Copy** must be made available without charge upon request. The report will also be on file with the Ottawa Service Area Office, Performance Improvement and Compliance Branch.

Sincerely,

Lynda Brown  
LTC Home Inspector – Nurse

c President, Resident's Council  
President, Family Council



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Health System Accountability and Performance  
Division  
Performance Improvement and Compliance Branch

Division de la responsabilisation et de la  
performance du système de santé  
Direction de l'amélioration de la performance et de la  
conformité

Ottawa Service Area Office  
347 Preston St, 4th Floor  
OTTAWA, ON, K1S-3J4  
Telephone: (613) 569-5602  
Facsimile: (613) 569-9670

Bureau régional de services d'Ottawa  
347, rue Preston, 4<sup>ème</sup> étage  
OTTAWA, ON, K1S-3J4  
Téléphone: (613) 569-5602  
Télécopieur: (613) 569-9670

Public Copy/Copie du public

Date(s) of inspection/Date(s) de l'inspection	Inspection No/ No de l'inspection	Type of Inspection/Genre d'inspection
Aug 29, Sep 1, 2, 6, 7, 8, 12, 13, 14, 20, 21, 22, 27, Oct 3, 2011	2011_021111_0026	Resident Quality Inspection

Licensee/Titulaire de permis

CRAIGLEE NURSING HOME LIMITED

c/o Deloitte & Touche Inc. - 181 Bay Street, Brookfield Place, Suite 1400, TORONTO, ON, M5J-2V1

Long-Term Care Home/Foyer de soins de longue durée

CRAIGLEE NURSING HOME

102 CRAIGLEE DRIVE, SCARBOROUGH, ON, M1N-2M7

Name of Inspector(s)/Nom de l'inspecteur ou des inspecteurs

LYNDA BROWN (111), BRENDA THOMPSON (175), LYNDA HAMILTON (124)

Inspection Summary/Resume de l'inspection

The purpose of this inspection was to conduct a Resident Quality Inspection inspection.

During the course of the inspection, the inspector(s) spoke with the Administrator, the Director of Care (DOC), Social Worker (SW), the RAI Co-ordinator (RAI), Program Manager, (PM), two activity aides, Physiotherapist, physiotherapy assistant (PA), Maintenance Manager, Environmental Services Manager, laundry aide, Registered Nurses (RN) and Registered Practical Nurses (RPN) on the first, second and third floor, Personal Support Workers (PSW), Janitors, the Director of Care Clerk, Staffing Co-ordinator, Dietary Aides on all three floors, Family Council President, Resident Council President, residents and family members.

During the course of the inspection, the inspector(s) reviewed residents health records, the home manuals: Resident Care and Services, Clinical Procedures, Infection Control, Lab Services, Pharmacy Services, Administration, Quality Management, Resident and Family Council Meeting Minutes, and the Quality Monitoring Minutes.

The following Inspection Protocols were used during this inspection:

Accommodation Services - Housekeeping

Accommodation Services - Laundry

Accommodation Services - Maintenance

Admission Process



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Continence Care and Bowel Management

Critical Incident Response

Dignity, Choice and Privacy

Dining Observation

Falls Prevention

Family Council

Hospitalization and Death

Infection Prevention and Control

Medication

Minimizing of Restraining

Nutrition and Hydration

Pain

Personal Support Services

Prevention of Abuse, Neglect and Retaliation

Quality Improvement

Recreation and Social Activities

Resident Charges

Residents' Council

Responsive Behaviours

Safe and Secure Home

Skin and Wound Care

Sufficient Staffing

Findings of Non-Compliance were found during this inspection.

#### NON-COMPLIANCE / NON-RESPECT DES EXIGENCES

##### Legend

WN - Written Notification  
VPC - Voluntary Plan of Correction  
DR - Director Referral  
CO - Compliance Order  
WAO - Work and Activity Order

##### Legende

WN - Avis écrit  
VPC - Plan de redressement volontaire  
DR - Aiguillage au directeur  
CO - Ordre de conformité  
WAO - Ordres de travaux et activités



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Non-compliance with requirements under the Long-Term Care Homes Act, 2007 (LTCHA) was found. (A requirement under the LTCHA includes the requirements contained in the items listed in the definition of "requirement under this Act" in subsection 2(1) of the LTCHA.)	Le non-respect des exigences de la Loi de 2007 sur les foyers de soins de longue durée (LFSLD) a été constaté. (Une exigence de la loi comprend les exigences qui font partie des éléments énumérés dans la définition de « exigence prévue par la présente loi » au paragraphe 2(1) de la LFSLD.
The following constitutes written notification of non-compliance under paragraph 1 of section 152 of the LTCHA.	Ce qui suit constitue un avis écrit de non-respect aux termes du paragraphe 1 de l'article 152 de la LFSLD.

WN #1: The Licensee has failed to comply with LTCHA, 2007 S.O. 2007, c.8, s. 6. Plan of care  
Specifically failed to comply with the following subsections:

- s. 6. (1) Every licensee of a long-term care home shall ensure that there is a written plan of care for each resident that sets out,
- (a) the planned care for the resident;
  - (b) the goals the care is intended to achieve; and
  - (c) clear directions to staff and others who provide direct care to the resident. 2007, c. 8, s. 6 (1).
- s. 6. (4) The licensee shall ensure that the staff and others involved in the different aspects of care of the resident collaborate with each other,
- (a) in the assessment of the resident so that their assessments are integrated and are consistent with and complement each other; and
  - (b) in the development and implementation of the plan of care so that the different aspects of care are integrated and are consistent with and complement each other. 2007, c. 8, s. 6 (4).
- s. 6. (10) The licensee shall ensure that the resident is reassessed and the plan of care reviewed and revised at least every six months and at any other time when,
- (a) a goal in the plan is met;
  - (b) the resident's care needs change or care set out in the plan is no longer necessary; or
  - (c) care set out in the plan has not been effective. 2007, c. 8, s. 6 (10).

**Findings/Faits saillants :**

1. On September 12, 2011 @ 12:22 hrs review of a health records for three identified residents' with urinary incontinence indicated no bowel and bladder assessment was completed when the residents bowel and bladder functioning changed. (Ref.s.6(10))  
-On September 12, 2011 an interview with RPN indicated that "whenever the resident has a change in bowel or bladder function, the bowel and bladder assessment form is to be completed on Point Click Care (PCC) and the care plan updated". (Ref.s.6(10))
3. On September 12, 2011 @ 10:41 hrs. review of an identified resident with urinary incontinence indicated the residents plan of care, including the MDS assessment and the PSW interview were not consistent with the residents actual care needs. (Ref.s.6(4))
4. On September 9, 2011 review of an identified resident experiencing pain indicated the resident was not reassessed weekly following receipt of a new pain medication. (Ref.s.6(10))
5. On September 09, 2011 @ 09:42 review of an identified residents plan of care indicated there was no clear direction to staff regarding a regular schedule of toileting and required assistance from staff. (Ref.s.6(1))



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**Additional Required Actions:**

*VPC - pursuant to the Long-Term Care Homes Act, 2007, S.O. 2007, c.8, s.152(2) the licensee is hereby requested to prepare a written plan of correction for achieving compliance regarding the need to ensure that each residents plan of care gives clear direction to staff, are consistent, and the plan of care is reviewed and revised when the residents care needs change related bowel and bladder management, falls prevention, skin and wound and pain management, to be implemented voluntarily.*

**WN #2: The Licensee has failed to comply with O.Reg 79/10, s. 8. Policies, etc., to be followed, and records**  
**Specifically failed to comply with the following subsections:**

**s. 8. (1) Where the Act or this Regulation requires the licensee of a long-term care home to have, institute or otherwise put in place any plan, policy, protocol, procedure, strategy or system, the licensee is required to ensure that the plan, policy, protocol, procedure, strategy or system,**  
**(a) is in compliance with and is implemented in accordance with applicable requirements under the Act; and**  
**(b) is complied with. O. Reg. 79/10, s. 8 (1).**

**Findings/Faits saillants :**



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1. Under O.Reg. 79/10, s.50 (2) Every licensee of a long-term care home shall ensure that,  
(b) a resident exhibiting altered skin integrity, including skin breakdown, pressure ulcers, skin tears or wounds,  
(i) receives a skin assessment by a member of the registered nursing staff, using a clinically appropriate assessment instrument that is specifically designed for skin and wound assessment.

The home policy (03-09) Wound Care Record (reviewed June 2010) indicates "A Wound Care Record will be initiated for every wound or alteration in skin integrity that requires treatment" and "The form must be completed weekly".

On September 11, 2011 review of health record for an identified resident at risk for alteration in skin integrity did not have a skin assessment initiated as per the homes policy and was not completed weekly as per the homes policy.

2. Under O.Reg. 79/10, s.131(6) Where a resident of the home is permitted to administer a drug to himself or herself under subsection (5), the licensee shall ensure that there are written policies to ensure that the residents who do so understand,

- (a) the use of the drug;
- (b) the need for the drug;
- (c) the need for monitoring and documentation of the use of the drug;

The homes Medi-system Pharmacy Manual under policy(04-01-30) Resident Self Administration indicates "Residents may self-administer their medications only upon an order by the physician".

On September 07, 2011 review of (September 2011) Treatment Administration Record (TAR) for an identified resident indicated the hand written direction for application of treatment creams did not reflect the current physician orders.

3. Under O.reg. 79/10, 131(4) A member of the registered nursing staff may permit a staff member who is otherwise not permitted to administer a drug to a resident to administer a topical if,

- (a) the staff member has been trained by a member of the registered nursing staff in the administration of topicals;
- (b) the member of the registered nursing staff who is permitting the administration is satisfied that the staff member can safely administer the topical; and
- (c) the staff member who administers the topical does so under the supervision of the member of the registered nursing staff.

Review of the home's policy (03-05 Skin Treatment) on September 07, 2011 indicates: "Registered staff will carry out skin care treatments as prescribed by the physician/ nurse practitioner or regional protocol..." (175)

- On September 07, 2011 @10:26hrs interview of a PSW indicated "if there is a rash or skin condition the PSW will ask the Registered staff if there is a cream prescribed for the condition and if there is, the Registered staff gives the cream to the PSW to apply and the PSW returns the cream to the Registered Staff. It says on the label it is sparingly then we put it according to the directions of the cream. I have no residents right now that have any treatment creams". (175)

4. Under O.Reg.79/10, s.52(2) Every licensee of a long-term care home shall ensure that when a resident's pain is not relieved by initial interventions, the resident is assessed using a clinically appropriate assessment instrument specifically designed for this purpose.

Review of the homes policy "Pain" (last reviewed April 2010) indicates "pain is reassessed quarterly using the MDS/RAI tool. Residents with responses to J2a and J2b will have the comprehensive pain assessment tool also completed. Tool is to be completed quarterly for score 0-4, monthly for score of 6 and weekly for score of 8 or greater. The pain assessment tool must be completed when a new analgesic or change to existing analgesic is ordered. Each time a PRN pain medication is given staff are to complete the pain flow sheet".

-review of a health record for an identified resident experiencing on-going pain indicated the homes policy related to pain was not complied with.





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**Additional Required Actions:**

*VPC - pursuant to the Long-Term Care Homes Act, 2007, S.O. 2007, c.8, s.152(2) the licensee is hereby requested to prepare a written plan of correction for achieving compliance regarding the need to ensure that the homes policies related to pain, skin and wound management are complied with, to be implemented voluntarily.*

**WN #3: The Licensee has failed to comply with LTCHA, 2007 S.O. 2007, c.8, s. 15. Accommodation services**  
**Specifically failed to comply with the following subsections:**

- s. 15. (2) Every licensee of a long-term care home shall ensure that,**  
(a) the home, furnishings and equipment are kept clean and sanitary;  
(b) each resident's linen and personal clothing is collected, sorted, cleaned and delivered; and  
(c) the home, furnishings and equipment are maintained in a safe condition and in a good state of repair. 2007, c. 8, s. 15(2).

**Findings/Faits saillants :**

1. On August 29, 2011 @ 17:30hrs. 2 PSWs on the 2nd Floor Dining Room, were observed standing to feed 2 separate residents. 2 PSWs reported they cannot use the black vinyl chair (feeding chair) because it is broken.  
On September 7, 2011 @ 12:33 hrs the black vinyl feeding chair on the 2nd floor dining room was observed to have an unstable seat and wheels.
2. On September 06, 2011 @ 16:22hrs observation of the 1st Floor Resident Lounge:  
-blue love seat with multiple stained seat cushions and armrests  
-Blue and orange vinyl chairs were heavily soiled  
-orange chair with scarred wooden armrests (and unable to keep clean), soiled metal legs and seat supports.  
-Blue upholstered chair with heavily stained seat cushions and armrests.  
-Orange upholstered armchair with torn piping on left arm, posing a potential risk for residents to get their hand or arm caught.  
-wooden Door to Resident Lounge with multiple scarring of wood (and unable to keep clean).  
-red armchair observed soiled armrests seat cushions and whitish stains on inside of right armrest.  
-Multiple stains and soiling on floor carpet.
3. On September 06, 2011 @ 16:34 hrs observation of the 2nd Floor Resident Lounges:  
-a brown love seat noted to be heavily stained and soiled on the seat cushions.  
-an armchair with mauve cloth backrest was also heavily soiled and stained  
-orange vinyl chair with armrests and dirt streaked metal tubing.  
-Orange cloth upholstered love seat with heavy soiling on seat cushion and a tear in the left armrest (and unable to keep clean).  
-a second Orange vinyl armchair with chipped foam seat (unable to clean) and dirty metal legs.  
-Stained seats on red upholstered armless chairs  
-sticky vinyl flooring.
4. On September 06, 2011 @ 16:04 hrs. observation of 3rd Floor Resident Lounge:  
-2 brown upholstered armchairs and 1 love seat with soiled and stained armrests and seat cushions.  
-2 Green upholstered Wing Chairs with worn and frayed armrests (unable to keep clean) and spot stained seat cushions.
5. On September 06, 2011 @ 15:59hrs observation on 3rd floor.  
-Wheelchair Weigh scales with multiple tears on surface area (unable to keep clean).

Interview with Environmental Services manager on September 7, 2011 @ 14:08 hrs. indicated a company comes in to steam clean the vinyl chairs with metal legs and armrests twice every year, they have not been here since last summer, the rugs were cleaned top to bottom, seven months ago and now we have our own steam cleaning machines for carpets". This person also indicated "there is no system in place for inventory of furniture or replacement of damaged furniture".



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**Additional Required Actions:**

VPC - pursuant to the Long-Term Care Homes Act, 2007, S.O. 2007, c.8, s.152(2) the licensee is hereby requested to prepare a written plan of correction for achieving compliance regarding the need to ensure that the homes furnishings and equipment are kept clean in all resident lounges and maintained in a safe condition and in a good state of repair, to be implemented voluntarily.

WN #4: The Licensee has failed to comply with O.Reg 79/10, s. 229. Infection prevention and control program  
Specifically failed to comply with the following subsections:

- s. 229. (10) The licensee shall ensure that the following immunization and screening measures are in place:
1. Each resident admitted to the home must be screened for tuberculosis within 14 days of admission unless the resident has already been screened at some time in the 90 days prior to admission and the documented results of this screening are available to the licensee.
  2. Residents must be offered immunization against influenza at the appropriate time each year.
  3. Residents must be offered immunizations against pneumococcus, tetanus and diphtheria in accordance with the publicly funded immunization schedules posted on the Ministry website.
  4. Staff is screened for tuberculosis and other infectious diseases in accordance with evidence-based practices and, if there are none, in accordance with prevailing practices.
  5. There must be a staff immunization program in accordance with evidence-based practices and, if there are none, in accordance with prevailing practices. O. Reg. 79/10, s. 229 (10).

**Findings/Faits saillants :**

On September 08, 2011 review of the health records for two identified residents indicated they were not screened for tuberculosis within 14 days of admission.(Ref.s.229(10)1.)

WN #5: The Licensee has failed to comply with O.Reg 79/10, s. 129. Safe storage of drugs

Specifically failed to comply with the following subsections:

- s. 129. (1) Every licensee of a long-term care home shall ensure that,
- (a) drugs are stored in an area or a medication cart,
    - (i) that is used exclusively for drugs and drug-related supplies,
    - (ii) that is secure and locked,
    - (iii) that protects the drugs from heat, light, humidity or other environmental conditions in order to maintain efficacy, and
    - (iv) that complies with manufacturer's instructions for the storage of the drugs; and
  - (b) controlled substances are stored in a separate, double-locked stationary cupboard in the locked area or stored in a separate locked area within the locked medication cart. O. Reg. 79/10, s. 129 (1).

**Findings/Faits saillants :**

1. The following expired medications were found in the drug storage room on September 8, 2011 @ 12:13hrs: Oral B Amosan, oral antiseptic rinse (expiry date of August 2011), seven bottles of Multivitamin tablets, 100 tablets per bottle (expiry date of February 2011), four bottles of Allelix, Diphenhydramine 50 mg. tablets, 100 tablets per bottle (expiry date of July 2011).
2. On September 07, 2011 @ 09:13hrs. a Thermometer and 2 watches were found stored in the locked narcotic bin on 2nd floor medication cart.  
Ref.s.129(1)(a)(i))



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WN #6: The Licensee has failed to comply with O.Reg 79/10, s. 130. Security of drug supply  
Every licensee of a long-term care home shall ensure that steps are taken to ensure the security of the drug supply, including the following:

1. All areas where drugs are stored shall be kept locked at all times, when not in use.
2. Access to these areas shall be restricted to,
  - i. persons who may dispense, prescribe or administer drugs in the home, and
  - ii. the Administrator.
3. A monthly audit shall be undertaken of the daily count sheets of controlled substances to determine if there are any discrepancies and that immediate action is taken if any discrepancies are discovered. O. Reg. 79/10, s. 130.

**Findings/Faits saillants :**

On September 07, 2011 @ 11:15 hrs the DOC Clerk reported that she is not a Registered Nursing staff member but has access to keys for the 2nd Floor Nursing Unit and puts away the government stock supplies.(ref.s.130,2.)

WN #7: The Licensee has failed to comply with O.Reg 79/10, s. 87. Housekeeping

Specifically failed to comply with the following subsections:

- s. 87. (2) As part of the organized program of housekeeping under clause 15 (1) (a) of the Act, the licensee shall insure that procedures are developed and implemented for,
- (a) cleaning of the home, including,
    - (i) resident bedrooms, including floors, carpets, furnishings, privacy curtains, contact surfaces and wall surfaces, and
    - (ii) common areas and staff areas, including floors, carpets, furnishings, contact surfaces and wall surfaces;
  - (b) cleaning and disinfection of the following in accordance with manufacturer's specifications and using, at a minimum, a low level disinfectant in accordance with evidence-based practices and, if there are none, in accordance with prevailing practices:
    - (i) resident care equipment, such as whirlpools, tubs, shower chairs and lift chairs,
    - (ii) supplies and devices, including personal assistance services devices, assistive aids and positioning aids, and
    - (iii) contact surfaces;
  - (c) removal and safe disposal of dry and wet garbage; and
  - (d) addressing incidents of lingering offensive odours. O. Reg. 79/10, s. 87 (2).

**Findings/Faits saillants :**

1. On August 29 & 30, 2011 and September 1, 2, 6, 7, 8, 9, 12, 14, 2011 inspectors noted lingering, offensive odours in the resident washroom/public washroom on the lower level.  
-On September 07, 2011 @ 14:09hrs interview of Manager of Environmental Services confirmed resident/public washroom on the lower level has a lingering, offensive odour. (Ref.s.87(2)(d))

2. On August 30, 2011 @ 11:15 hrs. an identified resident room on the first floor was noted to have urine odour in the bathroom.  
-Interview of handyman on September 1, 2011 @ 16:26 hrs indicated they noted a stale offensive odour in the same bathroom.  
-Interview of Environmental Services manager on September 7, 2011 @ 14:37 hrs. indicated "we know the rooms that have the worst odours in them, there are cleaned twice per day, we also have odour control units in the hallway in first floor east".



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**Additional Required Actions:**

VPC - pursuant to the Long-Term Care Homes Act, 2007, S.O. 2007, c.8, s.152(2) the licensee is hereby requested to prepare a written plan of correction for achieving compliance regarding the need to ensure that the home addresses all incidents of lingering, offensive odours, to be implemented voluntarily.

WN #8: The Licensee has failed to comply with LTCHA, 2007 S.O. 2007, c.8, s. 85. Satisfaction survey  
Specifically failed to comply with the following subsections:

s. 85. (3) The licensee shall seek the advice of the Residents' Council and the Family Council, if any, in developing and carrying out the survey, and in acting on its results. 2007, c. 8, s. 85. (3).

**Findings/Faits saillants :**

1. On September 06, 2011 @ 15:41 hrs. interview of Co-chair of Quality Improvement Committee indicated the home does not seek the advice of the Resident's Council, in developing and carrying out the Resident Satisfaction Survey.

WN #9: The Licensee has failed to comply with LTCHA, 2007 S.O. 2007, c.8, s. 60. Powers of Family Council  
Specifically failed to comply with the following subsections:

s. 60. (2) If the Family Council has advised the licensee of concerns or recommendations under either paragraph 8 or 9 of subsection (1), the licensee shall, within 10 days of receiving the advice, respond to the Family Council in writing. 2007, c. 8, s. 60. (2).

**Findings/Faits saillants :**

1. On September 14, 2011 @ 09:36 hrs. review of the June 1, 2011 Family Council meeting minutes posted by the front entrance did not include a written response to resident concerns raised at the meeting within 10 days of receiving Family Council advice/concerns.



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**WN #10:** The Licensee has failed to comply with O.Reg 79/10, s. 245. Non-allowable resident charges

The following charges are prohibited for the purposes of paragraph 4 of subsection 91 (1) of the Act:

1. Charges for goods and services that a licensee is required to provide to a resident using funding that the licensee receives from,
  - i. a local health integration network under section 19 of the Local Health System Integration Act, 2006, including goods and services funded by a local health integration network under a service accountability agreement, and
  - ii. the Minister under section 90 of the Act.
2. Charges for goods and services paid for by the Government of Canada, the Government of Ontario, including a local health integration network, or a municipal government in Ontario.
3. Charges for goods and services that the licensee is required to provide to residents under any agreement between the licensee and the Ministry or between the licensee and a local health integration network.
4. Charges for goods and services provided without the resident's consent.
5. Charges, other than the accommodation charge that every resident is required to pay under subsections 91 (1) and (3) of the Act, to hold a bed for a resident during an absence contemplated under section 138 or during the period permitted for a resident to move into a long-term care home once the placement co-ordinator has authorized admission to the home.
6. Charges for accommodation under paragraph 1 or 2 of subsection 91 (1) of the Act for residents in the short-stay convalescent care program.
7. Transaction fees for deposits to and withdrawals from a trust account required by section 241, or for anything else related to a trust account.
8. Charges for anything the licensee shall ensure is provided to a resident under this Regulation, unless a charge is expressly permitted. O. Reg. 79/10, s. 245.

**Findings/Faits saillants :**

On September 11, 2011 @ 14:58 hrs review of the trust account agreement for an identified resident indicated consent for hairdressing charges for a maximum of \$40.00/month and review of the billing transaction history indicated resident was billed in excess of that amount during 2011. (Ref.s.245.4.)

**WN #11:** The Licensee has failed to comply with O.Reg 79/10, s. 224. Information for residents, etc.

Specifically failed to comply with the following subsections:

- s. 224. (1) For the purposes of clause 78 (2) (r) of the Act, every licensee of a long-term care home shall ensure that the package of information provided for in section 78 of the Act includes information about the following:
1. The resident's ability under subsection 82 (2) of this Regulation to retain a physician or registered nurse in the extended class to perform the services required under subsection 82 (1).
  2. The resident's obligation to pay the basic accommodation charge as described in subsection 91 (3) of the Act.
  3. The obligation of the resident to pay accommodation charges during a medical, psychiatric, vacation or casual absence as set out in section 258 of this Regulation.
  4. The method to apply to the Director for a reduction in the charge for basic accommodation and the supporting documentation that may be required, including the resident's Notice of Assessment issued under the Income Tax Act (Canada) for the resident's most recent taxation year.
  5. A list of the charges that a licensee is prohibited from charging a resident under subsection 91 (1) of the Act.
  6. The list of goods and services permitted under paragraph 3 of subsection 91 (1) of the Act that a resident may purchase from the licensee and the charges for those goods and services.
  7. The resident's ability to have money deposited in a trust account under section 241 of this Regulation.
  8. The Ministry's toll-free telephone number for making complaints about homes and its hours of service. O. Reg. 79/10, s. 224 (1).

**Findings/Faits saillants :**



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On September 11, 2011 @ 14:38 hrs a review of identified residents' admission packages indicated the Ministry's toll-free telephone number for making complaints about the home and its hours of service was not included. (Ref. s.224(1)8)

WN #12: The Licensee has failed to comply with LTCHA, 2007 S.O. 2007, c.8, s. 78. Information for residents, etc.

Specifically failed to comply with the following subsections:

- s. 78. (2) The package of information shall include, at a minimum,
- (a) the Residents' Bill of Rights;
  - (b) the long-term care home's mission statement;
  - (c) the long-term care home's policy to promote zero tolerance of abuse and neglect of residents;
  - (d) an explanation of the duty under section 24 to make mandatory reports;
  - (e) the long-term care home's procedure for initiating complaints to the licensee;
  - (f) the written procedure, provided by the Director, for making complaints to the Director, together with the name and telephone number of the Director, or the name and telephone number of a person designated by the Director to receive complaints;
  - (g) notification of the long-term care home's policy to minimize the restraining of residents and how a copy of the policy can be obtained;
  - (h) the name and telephone number of the licensee;
  - (i) a statement of the maximum amount that a resident can be charged under paragraph 1 or 2 of subsection 91
  - (1) for each type of accommodation offered in the long-term care home;
  - (j) a statement of the reductions, available under the regulations, in the amount that qualified residents can be charged for each type of accommodation offered in the long-term care home;
  - (k) information about what is paid for by funding under this Act or the Local Health System Integration Act, 2006 or the payments that residents make for accommodation and for which residents do not have to pay additional charges;
  - (l) a list of what is available in the long-term care home for an extra charge, and the amount of the extra charge;
  - (m) a statement that residents are not required to purchase care, services, programs or goods from the licensee and may purchase such things from other providers, subject to any restrictions by the licensee, under the regulations, with respect to the supply of drugs;
  - (n) a disclosure of any non-arm's length relationships that exist between the licensee and other providers who may offer care, services, programs or goods to residents;
  - (o) information about the Residents' Council, including any information that may be provided by the Residents' Council for inclusion in the package;
  - (p) information about the Family Council, if any, including any information that may be provided by the Family Council for inclusion in the package, or, if there is no Family Council, any information provided for in the regulations;
  - (q) an explanation of the protections afforded by section 26; and
  - (r) any other information provided for in the regulations. 2007, c. 8, s. 78 (2)

Findings/Faits saillants :

1. On September 11, 2011 @ 14:41 hrs a review of the admission packages for two identified residents indicated the packages did not include:
  - an explanation of whistle-blowing protection related to retaliation.
  - the name and telephone number of the licensee.
  - the home's policy to promote zero tolerance of abuse and neglect of residents.
  - the homes mission statement.
  - the revised resident bill of rights.
2. Interview of Office Manager on September 2, 2011 @ 10:50 hrs. indicated the resident admission package was not revised to include the new residents rights, whistle-blowing, rate reduction, complaints procedures, and abuse prevention information until approximately 2 months ago.



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Issued on this 3rd day of October, 2011

Signature of Inspector(s)/Signature de l'inspecteur ou des inspecteurs

G. Brown (#111)

L. Hamilton (#124)

B. Thompson (#175) (signed on behalf of)

# TAB E



918.95987 - CRAIGLEE NURSING HOME LIMITED  
INCOME STATEMENT BY ENVELOPE  
FOR THE TWELVE MONTHS ENDED DECEMBER 31, 2010

	CURRENT MONTH			YEAR-TO-DATE		
	ACTUAL	PRD	BUDGET	PRD	BUDGET	PRD
	4,676		5,238		59,876	
			\$ VAR		\$ VAR	
			(683)		(9,865)	
			PRD VAR		PRD VAR	
			% VAR		% VAR	
EARNED RESIDENT DAYS						
ACCOMMODATION						
GOVT. RESIDENT FUNDING	\$ 302,035	\$ 66.00	\$ 295,742	\$ 50.46	\$ 3,499,817	\$ 60.83
REV - SEMI PRIVATE DIFF.	\$ 1,181	\$ 0.26	\$ 3,407	\$ 0.65	\$ 21,270	\$ 0.42
REV - PRIVATE DIFF.	\$ 10,943	\$ 2.38	\$ 13,688	\$ 2.61	\$ 110,130	\$ 2.20
DEFERRED FOOD REVENUE	\$ -	\$ -	\$ -	\$ -	\$ 0	\$ 0.00
OA OCCUPANCY CLAWBACK	\$ (37,924)	\$ (8.29)	\$ -	\$ -	\$ (653,312)	\$ (13.03)
PAY EQUITY FUNDING	\$ 5,859	\$ 1.28	\$ 6,884	\$ 1.12	\$ 69,881	\$ 1.38
ACCREDITATION FUNDING	\$ 1,728	\$ 0.38	\$ -	\$ -	\$ 20,358	\$ 0.41
STRUCTURAL COMPLIANCE FUNDING	\$ 5,293	\$ 1.16	\$ 5,292	\$ 1.01	\$ 65,215	\$ 1.30
TAX FUNDING	\$ 26,278	\$ 5.74	\$ 27,523	\$ 5.25	\$ 317,393	\$ 6.33
OTHER GOVT. FUNDING	\$ 23,810	\$ 5.16	\$ 23,810	\$ 4.51	\$ 283,320	\$ 5.85
ANCILLARY REVENUE	\$ (3,988)	\$ (1.51)	\$ 360	\$ 0.07	\$ 15,163	\$ 0.30
TOTAL ACCOMMODATION REVENUE	\$ 332,108	\$ 72.58	\$ 375,486	\$ 71.87	\$ 3,749,014	\$ 74.80
WAGES - ADMIN	\$ 17,699	\$ 3.87	\$ 19,288	\$ 3.88	\$ 223,994	\$ 4.47
WAGES - DIETARY	\$ 48,941	\$ 10.70	\$ 49,208	\$ 9.39	\$ 544,395	\$ 10.88
WAGES - HOUSEKEEPING	\$ 37,366	\$ 8.17	\$ 34,452	\$ 6.58	\$ 387,384	\$ 7.33
WAGES - LAUNDRY	\$ 11,166	\$ 2.44	\$ 9,297	\$ 1.77	\$ 86,453	\$ 1.72
WAGES - MAINTENANCE	\$ 185	\$ 0.04	\$ 3,353	\$ 0.86	\$ 103,884	\$ 2.07
TOTAL WAGES	\$ 115,357	\$ 26.21	\$ 115,814	\$ 22.11	\$ 1,326,089	\$ 26.46
BENEFITS	\$ 13,829	\$ 3.02	\$ 15,628	\$ 2.98	\$ 178,890	\$ 3.57
UTILITIES - FUEL	\$ 4,216	\$ 0.92	\$ 6,886	\$ 1.28	\$ 94,283	\$ 1.88
UTILITIES - HYDRO	\$ 3,883	\$ 1.50	\$ 9,201	\$ 1.78	\$ 107,483	\$ 2.14
UTILITIES - WATER	\$ 325	\$ 0.07	\$ 3,884	\$ 0.74	\$ 38,084	\$ 0.78
FOOD	\$ 43,681	\$ 9.54	\$ 38,297	\$ 7.31	\$ 387,702	\$ 7.74
SUPPLIES	\$ 1,159	\$ 0.25	\$ 8,430	\$ 1.80	\$ 117,398	\$ 2.34
REPAIRS & MAINTENANCE	\$ 17,723	\$ 3.87	\$ 7,290	\$ 1.39	\$ 87,647	\$ 1.75
MAINTENANCE CONTRACTS	\$ 10,308	\$ 2.25	\$ 5,498	\$ 1.05	\$ 101,082	\$ 2.02
REALTY TAX	\$ 31,847	\$ 8.98	\$ 32,380	\$ 6.18	\$ 374,857	\$ 7.48
INSURANCE	\$ 1,789	\$ 0.39	\$ 1,789	\$ 0.34	\$ 21,896	\$ 0.43
OTHER G&A COSTS	\$ 19,414	\$ 4.24	\$ 7,544	\$ 1.44	\$ 109,802	\$ 2.17
NON OPERATING COSTS	\$ -	\$ -	\$ -	\$ -	\$ 31,818	\$ 0.63
TOTAL OTHER EXPENSE	\$ 151,223	\$ 33.05	\$ 137,805	\$ 26.27	\$ 1,649,270	\$ 32.91
TOTAL ACCOMMODATION EXPENSE	\$ 266,579	\$ 58.26	\$ 253,419	\$ 48.37	\$ 2,975,340	\$ 59.36
NET ACCOMMODATION INCOME	\$ 85,528	\$ 14.32	\$ 122,078	\$ 23.30	\$ 773,574	\$ 15.44

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# TAB F

CRAIGLEE NURSING HOME LIMITED  
INCOME STATEMENT BY ENVELOPE  
FOR THE ONE MONTH AND EIGHT MONTHS ENDED AUGUST 31, 2011

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	Current			Per Patient Day		Year to Date			Per Patient Day		
	Actual	Budget	Variance	Actual	Budget	Actual	Budget	Variance	Actual	Budget	Budget
<b>ACCOMODATION</b>											
Government Funding	364,459	367,985	(3,525)	70.74	70.24	2,899,931	2,737,018	(162,913)	70.89	70.71	4,189,008
Preferred Revenue	13,735	17,459	(3,724)	2.67	3.33	97,052	111,284	(14,232)	2.56	2.87	181,101
Auxiliary Revenue	185	300	(115)	0.03	0.08	2,308	2,400	(92)	0.06	0.06	3,600
Interest/Other Revenue	0	0	0	0.00	0.00	249	0	(249)	0.01	0.00	0
Total Accommodation Revenue	378,359	385,744	(7,385)	73.44	73.63	2,799,541	2,850,692	(51,151)	73.51	73.65	4,373,709
Wages	111,832	108,447	(3,385)	21.71	20.32	885,468	821,010	(64,458)	23.25	21.21	1,245,388
Benefits	15,847	15,165	(682)	3.08	2.90	122,362	121,379	(983)	3.21	3.14	179,585
Utilities	25,818	19,904	(5,914)	4.97	3.80	218,059	182,831	(35,228)	5.73	4.98	277,173
Food	37,722	38,402	680	7.32	7.33	300,062	283,716	(16,346)	7.88	7.33	434,845
Supplies	8,385	9,867	1,482	1.63	1.88	101,810	78,833	(22,977)	2.67	2.04	118,400
Repairs & Maintenance	13,014	6,750	(6,264)	2.53	1.29	91,306	54,000	(37,306)	2.40	1.40	81,000
Maintenance Contracts	9,276	6,554	(2,722)	1.80	1.25	80,189	53,804	(26,385)	1.58	1.39	80,020
Management Fees	27,374	28,125	751	5.31	5.37	198,983	207,374	8,391	5.22	5.36	318,200
Municipal Realty Tax	31,117	31,739	622	6.04	6.06	248,948	253,915	4,967	6.54	6.56	380,872
Insurance	2,337	2,083	(253)	0.45	0.40	16,328	16,667	339	0.43	0.43	25,000
Other Costs	17,439	9,269	(8,170)	3.38	1.77	108,017	74,153	(33,864)	2.84	1.82	111,930
Total Accommodation Expense	299,956	274,326	(25,630)	58.22	52.36	2,351,540	2,157,780	(193,760)	61.74	55.75	3,252,473
NET ACCOMODATION	78,403	111,418	(33,014)	15.22	21.27	448,002	692,912	(244,910)	11.76	17.90	1,121,236
<b>NURSING</b>											
Government Funding	470,342	455,984	14,358	91.29	87.04	3,686,178	3,541,429	144,749	96.26	91.50	5,336,721
Clawback	(7,622)	0	(7,622)	(1.48)	0.00	(254,469)	(188,078)	(66,391)	(5.66)	(5.07)	(196,078)
Pay Equity	19,202	19,184	18	3.73	3.66	152,297	152,153	144	4.00	3.93	228,381
Deferral	(11,271)	0	(11,271)	(2.19)	0.00	(69,746)	0	(69,746)	(1.83)	0.00	0
Total Nursing Revenue	470,651	475,168	(4,517)	91.35	90.70	3,494,260	3,497,504	(3,244)	91.75	90.36	5,369,003
Wages	388,243	385,285	(2,958)	75.36	73.54	2,814,093	2,841,411	(27,318)	73.89	73.41	4,349,738
Benefits	58,282	53,387	(4,895)	11.31	10.19	402,922	415,508	(12,586)	10.58	10.76	618,835
Incontinent Supplies	6,287	6,287	0	1.22	1.20	49,280	46,447	(2,833)	1.29	1.20	71,188
Other Supplies	8,109	12,242	4,133	1.57	2.34	104,362	97,836	(6,526)	2.74	2.63	146,904
Repairs & Maintenance	767	1,700	933	0.15	0.32	47,726	13,600	(34,126)	1.25	0.35	20,400
Medical Advisory	1,572	1,572	0	0.31	0.30	11,709	12,320	611	0.31	0.32	18,508
Physician on call	1,408	1,408	0	0.27	0.27	11,288	11,284	4	0.30	0.29	16,896
Maintenance Contracts	689	800	111	0.13	0.16	5,852	6,400	548	0.15	0.17	9,600
Other Costs	5,274	6,610	1,336	1.02	1.26	49,054	52,863	3,809	1.29	1.37	79,325
Total Nursing Expense	470,651	469,301	(1,350)	91.35	89.58	3,496,284	3,498,769	2,485	91.80	90.39	5,331,392
NET NURSING	0	5,867	(5,867)	(0.00)	1.12	(2,001)	(1,265)	(736)	(0.05)	(0.03)	37,611
<b>PROGRAMS</b>											
Government Funding	44,803	44,692	111	8.70	8.53	347,642	347,078	564	9.13	8.97	523,002
Clawback	(734)	0	(734)	(0.14)	0.00	(24,685)	(19,281)	(5,404)	(0.65)	(0.50)	(19,281)
Deferral	(12,186)	0	(12,186)	(2.37)	0.00	(71,478)	0	(71,478)	(1.88)	0.00	0
Total Program Revenue	31,883	44,692	(12,809)	6.19	8.53	251,479	327,797	(76,318)	6.60	8.47	503,720
Wages	24,630	33,029	8,399	4.78	6.30	207,542	254,872	47,330	5.45	6.58	384,327
Benefits	3,910	4,407	497	0.76	0.84	28,583	35,309	6,726	0.75	0.91	51,979
Supplies	2,632	2,575	(57)	0.51	0.49	9,777	20,600	10,823	0.26	0.53	30,900
Repairs & Maintenance	0	440	440	0.00	0.08	0	3,520	3,520	0.00	0.09	6,280
Maintenance Contracts	0	0	0	0.00	0.00	0	0	0	0.00	0.00	0
Other Costs	710	2,297	1,587	0.14	0.44	5,578	18,376	12,798	0.15	0.47	27,564
Total Program Expense	31,883	42,748	10,865	6.19	8.16	251,478	332,676	81,198	6.60	8.59	500,051
NET PROGRAMS	0	1,944	(1,944)	0.00	0.37	0	(4,880)	(4,880)	0.00	(0.13)	3,669
NET OPERATING SURPLUS/(DEFICIT)	78,403	119,229	(40,826)	15.22	22.76	448,000	686,757	(240,756)	11.71	17.74	1,162,516
<b>NON OPERATING EXPENSES</b>											
Depreciation/Amortization	4,074	0	(4,074)	0.79	0.00	28,615	0	(28,615)	0.70	0.00	0
Total Non Operating Expense	4,074	0	(4,074)	0.79	0.00	28,615	0	(28,615)	0.70	0.00	0
NET SURPLUS/(DEFICIT)	74,329	119,229	(44,900)	14.43	22.76	419,385	686,757	(267,371)	11.01	17.74	1,162,516
<b>OCCUPANCY</b>											
Number of Beds	159	169				169	169				169
Eamed Patient Days	5,152	5,239				38,085	38,706				59,324
Available Patient Days	5,239	5,239				41,067	41,067				61,685
Occupancy Percentage	98.34%	100.00%				92.74%	94.25%				96.17%

# TAB G



000458148 000413711 09

00130

Account No.

Client No.

102 CRAIGLEE DR  
Service Address

001672-1 57M 9/8

CRAIGLEE NURSING HOME  
LIMITED  
102 CRAIGLEE DR  
SCARBOROUGH ON M1N 2M7

Inst#: 09301000458148

New Inst#: 09301000458148-09

Please RETURN this portion  
with your payment

00045814800041371109 130720097 027950948 028108827

001572=9000:

96

Water & Solid Waste Management

# UTILITY BILL

Please KEEP this portion  
for your records



Revenue Services  
Box 6000  
Toronto, ON M2N 5V6

Page 1 of 1

000458148 000413711 09  
Account No. Client No.

Property Owner

CRAIGLEE NURSING HOME  
LIMITED

102 CRAIGLEE DR  
Service Address

## WATER - METER READING METER NO. 61879320

Current Reading Date 17/Jun/2009 Reading 77288.00  
Previous Reading Date 19/May/2009 75702.00  
Consumption (29 days) 1586.00 m<sup>3</sup>

Balance Forward	\$	21,307.91
Billings	\$	3,461.18
Loss of Discount	\$	182.17
Previous Balance	\$	24,951.26

## WATER - Current Billing

Total Consumption	Total Water & Sewer Charge
9% Rate Increase JAN 01, 2009	
Block 1: 1586.00 m <sup>3</sup> @ 1.990900000000	= \$ 3,157.56
1586.00 m <sup>3</sup>	\$ 3,157.56
Total Water - Current Billing	\$ 3,157.56

Total Billing FOR THE PERIOD FROM MAY 19 109 - JUN 14 109. \$ 28,108.82

Approval [Signature] Craiglee N.H. - General  
Check Addrs, Exts and Prices Val Session # 41276372  
Short Name TRBSU02 Address Type error  
912.95987. 4116 0.6033 \$ 28,108.82 not have  
917. 00000 \$ 3,157.56 beard  
917. 00000 \$ 0 this amt  
917. 00000 \$ 0 all should  
have  
issued  
\$ 3,157.56

COLLECTIONS: 416-895-0174  
FAX: 416-696-3605  
CUTTER SERVICE LINE: 416-338-4629

## Summary of Services

Water	\$	1,357.75
Sewer	\$	1,799.81
SWM Fee	\$	0.00
	\$	3,157.56

Utility Bills now include solid waste management fees as of November 1, 2008. Effective January 1, 2009, City Council approved one General Water Rate of \$1.9909/m<sup>3</sup> (\$1.8914/m<sup>3</sup>) if paid on or before the due date. There is no rate increase to Solid Waste fees for 2009. For more information please visit our website at [www.toronto.ca/utilitybill](http://www.toronto.ca/utilitybill)

\$ 27,950.91  
Payable Before  
13/Jul/2009  
Due Date  
\$ 28,108.82  
Payable After

# TAB H

**UTILITY BILL**Please KEEP this portion  
for your records

000458148 000413711 09

Account No. Client No.

Property Owner

102 CRAIGLEE DR

CRAIGLEE NURSING HOME  
LIMITED

Service Address

Revenue Services  
Box 6000  
Toronto, ON M2N 5V3

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## DESCRIPTION

**WATER - METER READING METER NO. 61879320**

Current Reading Date

Reading

17/Dec/2010

106115.00

Previous Reading Date

17/Nov/2010

104587.00

Consumption (30 days)

1528.00 m<sup>3</sup>

Balance Forward

Billings

Payment 15/Dec/2010 (thank you)

Previous Balance

\$	24,810.90
\$	3,339.78
\$	-28,326.46
\$	-175.78

**WATER - Current Billing**

Total

Consumption

Total Water

&amp; Sewer Charge

9% Rate Increase JAN 01, 2010

Block 1: 1528.00 m<sup>3</sup> @ 2.170100000000

=\$ 3,315.91

1528.00 m<sup>3</sup>

\$ 3,315.91

Total Water - Current Billing

\$ 3,315.91

Total Billing

INV# UTILITIES-DEC1095987

3,140.13

Craiglee N.H. - General

Approval

Check Addrs, Exts and Prices

Session #

Short Name

Address Type

9165987 416000.6033000 \$ 3140.13

917. .00000. \$

917. .00000. \$

917. .00000. \$

Refunds init -

FAX# (416) 696-4131

ATT: John Longearne -  
Sarah called back.

Jackson 416 395 0023

Theresa Scott

392 7824

## Summary of Services

Water	\$	1,425.84
Sewer	\$	1,890.07
SWM Fee	\$	0.00
	\$	3,315.91

John Longearne

(416) 395-1226

Supervisor Full Refunds.

\$ 2,974.33

Payable Before

24/Jan/2011

Due Date

\$ 3,140.13

Payable After

Total  
of payment



# TAB I

000132

Sharm Sowa

**From:** Eric Golden  
**Sent:** June-17-11 10:34 AM  
**To:** Christopher J Henderson  
**Subject:** RE: Desjardins Financial Security v. Craiglee Nursing Home Ltd., CV \* 09 \* 8159 \* 00CL

Hi Chris,

The Receiver has to bring a motion by the last week of August, 2011, to obtain a vesting order of the Craiglee assets. It has scheduled its motion for August 25, 2011, and will use that date to deal with several outstanding matters including but not limited to the 25K payment that was made to the City in error.

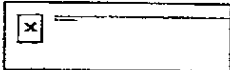
Your email below is an ex-post attempt to fabricate reliance on the 25K payment. There was no consideration for the 25K payment, and the City has not changed its position in reliance on the payment.

The Receivership Order dated April 28, 2009, precluded the City from moving the pre-Receivership water arrears to the tax roll (post-Receivership utility payments are to be paid subject to whatever rights the Receiver may have, such as set off). The City did not previously transfer pre-Receivership property arrears to the tax roll because that would have been a breach of the Receivership Order. The City's email to the prospective purchaser that I forwarded to you confirms that the City preserved whatever rights for the water arrears it mistakenly believes it has.

You will be served with the Receiver's motion record in due course.

---

**From:** Christopher J Henderson [mailto:chender3@toronto.ca]  
**Sent:** June 16, 2011 10:50 AM  
**To:** Eric Golden  
**Subject:** Desjardins Financial Security v. Craiglee Nursing Home Ltd., CV \* 09 \* 8159 \* 00CL



**LEGAL SERVICES**

Anna Kinastowski, B.A., LL.B.\*  
City Solicitor  
26th Floor, Metro Hall, Stn. 1260  
55 John Street  
Toronto, ON M5V 3C6  
Tel 416 - 392 - 8047

*\* Certified by the Law Society as a  
Specialist in Municipal Law: Local  
Government / Land Use Planning &  
Development*

Christopher J. Henderson, M.P.A.,  
LL.B.

Reply to:  
Lawyer, Litigation Section  
Tel: 416 - 397 - 7106  
Fax: 416 - 392 - 1199  
Email: [chender3@toronto.ca](mailto:chender3@toronto.ca)

VIA E-MAIL

File No. L9000-5500-852-2011-204714162

June 16, 2011

Mr. Eric Golden  
Blaney McMurtry  
1500 - 2 Queen Street East  
Toronto, ON M5C 3G5

000133

Dear Mr. Golden:

Re: **Desjardins Financial Security v. Craiglee Nursing Home Ltd.**  
**CV - 09 - 8159 - 00CL**

I write further to your emailed letters of May 27 and June 6, 2011 to my colleague Mr. Gouthro. As your email of June 6, 2011 indicates an intention to commence litigation respecting this matter, the file has been transferred to me for a response as I am litigation counsel to the City.

The City's utility arrears have priority lien status in the same manner as unpaid property taxes. As such, they are in priority to every claim, privilege, lien or encumbrance of every person except the Crown, see ss. 3(5-7) and 314(3) of the *City of Toronto Act*, 2006 and s. 1 of O.Reg. 594/06. In particular, the City's interests are in priority to the mortgage interest of your client and the Applicant in the above-mentioned proceeding, Desjardins Financial Security.

Your comments in your emailed letter of May 27, 2011 that the City is an unsecured creditor and that it has improperly secured a preference over unsecured creditors and Desjardins are accordingly without merit. The City's utility arrears have always been in priority to both the unsecured creditors, and the mortgage interest of Desjardins.

There does not appear to be any terms in the Order of Justice Campbell altering the priority that the City's utility arrears have pursuant to the *City of Toronto Act*, 2006 over both unsecured and secured creditors.

Had the Receiver not made the payment of \$28,326.46 on December 15, 2010, the City would have transferred the unpaid utility arrears to the property tax account for the property pursuant to s. 264(2) of the *City of Toronto Act*, 2006 as the City had done on previous occasions, such as on January 14, 2009. The City would subsequently have received payment for this amount by virtue of the series of payments submitted towards the property tax arrears and obligations at the property on February 28, March 31, April 29 and May 31, 2011.

Because of the Receiver's payment, the City did not transfer utility arrears to the property tax account as there were no arrears to transfer.

The City received a request for a Tax Arrears Certificate on February 23, 2011, and the Certificate was issued on March 7, 2011. The City is bound to the arrears listed on the Statement pursuant to s. 317(2) of the *City of Toronto Act*, 2006. The City's ability to collect on its utility arrears are now impaired because of the payment submitted by the Receiver, the issuance of the Certificate, and by operation of s. 317(2).

Accordingly, the City has changed its position to its detriment as a result of the payment submitted by the Receiver. Change of position is an equitable defence to a demand for repayment. The City will be relying on this defence in the event a proceeding is commenced seeking repayment of the utility arrears.

I note that two property tax payments have been submitted to the City since the Order of Justice Campbell. Because of the Order, the City understands these payments could not have come from the owner of the property, Craiglee Nursing Home, but rather were submitted by or on behalf of either the Receiver, Desjardins

000134

or some other creditor with a secured interest in the property. Given that utility arrears form part of unpaid property taxes for substantially all intents and purposes, the City fails to understand why there is any objection to the payment of utility arrears given that property tax arrears and obligations were paid voluntarily and without objection.

We hope this clarifies and resolves this matter. Please contact me at the above-listed contact information if there are any further questions or concerns.

Sincerely,

Christopher J. Henderson

Lawyer

/cjh

c: Tina DiStefano, Supervisor, Account Administration, Revenue Services  
John Longarini, Supervisor, Refunds, Revenue Services

GALEGALit\_CH\Chender3\Revenue Services - 852\102 Craiglee\102 Craiglee - Letter to Receiver June 16 2011.doc

000135

Sharm Sowa

**From:** Eric Golden  
**Sent:** June-06-11 3:58 PM  
**To:** Michael Gouthro  
**Cc:** Gill, Rodney; Henderson, Christopher J  
**Subject:** RE: Craiglee Nursing Home

Michael,

This will confirm that notwithstanding that the City is aware that the 25K payment was made in error, and that it can provide no basis in law for keeping the payment, it intends to keep the payment. In addition, keeping the 25K results in a preference to the City over all other creditors. The City is either taking advantage of the Receiver, or the remaining unsecured creditors. The intention of the Receiver in the transaction is irrelevant as there was no consideration to the Receiver for the 25K payment.

The Receiver will be bringing the necessary motion to recoup the funds. It will be seeking full indemnity costs against the City. You should expect the Receiver's Bill of Costs with respect to such a motion to be at least 7.5K, and reference to this series of email will be made to respond to any argument from the City that such a costs award would not be proportional to the amount in issue. As per my email below, there are two likely outcomes on the motion (the City returns the 25K, or gets to keep about \$156.00).

The motion will be scheduled for the next date that we are in Commercial Court on this matter.

Finally, as per below, a lien claim with respect to pre-Receiver'ship debts would be in breach of the Order. Liens are limited to post-receivership debts, and your assertion in your previous email was that if the 25K was refunded, the 25K pre-receivership debt would be added to the tax roll.

---

**From:** Michael Gouthro [mailto:mgouthro@toronto.ca]  
**Sent:** June 03, 2011 2:36 PM  
**To:** Eric Golden  
**Cc:** Gill, Rodney; Henderson, Christopher J  
**Subject:** RE: Craiglee Nursing Home

Eric,

As a preliminary matter, contrary to your assertion, Rodney Gill's involvement was, in fact, in respect to a *Provincial Offences Act* fine added to the tax rolls. Rodney Gill did not remove water arrears from the tax roll but rather a POA fine.

There is no provision in the Order prohibiting the City from retaining the funds paid in respect to water arrears duly owing, even if the payment had been negligently paid by the Receiver. This will confirm that the Receiver has chosen not to identify the basis of its error nor the basis of its entitlement to reimbursement other than reference to the Order.

Given that the payment was made by the Receiver and, by your assertion, in error, it is clear that there was no intent on the part of the debtor to give a preference to a creditor.

Additionally, paragraph 11 of Justice Campbell's Order of April 28, 2009 specifically provides that nothing in the Order shall prevent the filing of a claim for lien.

The City's position remains as previously noted in my email of May 27, 2011.

Regards,

000136

Mike Gouthro  
Senior Solicitor  
City of Toronto, Legal Services Division  
Metro Hall, 26th Fl.  
Toronto, Ontario  
M5V 3C6  
416-392-8037

=====

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>>> "Eric Golden" <egolden@blaney.com> 5/27/2011 3:28 PM >>>  
Michael,

As a preliminary matter, notwithstanding my recommendation that you do so, it's painfully obvious that you have not consulted with your colleague Rodney Gill, with whom I previously had dealings in relation to water arrears matters in this Receivership. The City had improperly added the pre-Receivership water arrears to the tax roll, which was in contravention of the attached Receivership Order. I provided Mr. Gill with the Court Order and he remedied the situation forthwith, removing the water arrears from the tax roll. Notwithstanding your comment below (in the second to last paragraph of your email) that the City would do so again if it was required to refund the 25K in question, I trust that this will not occur, as the next time it would be an intentional breach of the Receivership Order (as per your email at your direction), and the Receiver would take the required steps to deal with that situation.

Now, with respect to the payment for 25K that was made in error.

I don't intend on conducting the City's legal research for it. It's apparent from your misguided comment about moving the 25K water arrears to the tax roll, that in the 8 weeks since I first placed Chris Henderson on notice of this matter, the City has not conducted the required due diligence.

However, I can advise you that there are only two possible outcomes if the 25K is not returned to the Receiver, neither of which is of any assistance to the City.

The first outcome is that in accordance with the terms Receivership Order, the funds are to be returned to the Receiver forthwith. The Receiver's position is that by not re-imbursing the 25K, the City is in breach of the Receivership Order. I again invite you to review the Order.

The second outcome arises out of mistaken allegation that the City is somehow entitled to keep the 25K on the basis that it was a payment voluntarily made by the Receiver, even though in error. The City was an unsecured creditor for the 25K in water arrears in question. Unsecured creditors share pro rata in any distribution. There will be a shortfall to Desjardins on its mortgage on the sale of the Craiglee Nursing Home. The remaining unsecured debts total over \$4 million, and they will not be paid out of the proceeds of sale. By holding onto the 25K payment, the City is attempting to assert an improper preference over all other unsecured creditors. The City had no entitlement to this 25K over and above any other unsecured creditor.

So one way or another the City is returning the 25K to the Receiver, either to reimburse the Receiver for the 25K paid to the City in error, or for pro rata distribution by the Receiver to the unsecured creditors. Based on the amount owing to the unsecured creditors, the City would receive approximately \$156.00 out of the \$25,000.00 on a pro rata

distribution. The City will either recoup nothing, or about \$156, and also assume the risk of paying the Receiver's legal costs under either scenario.

Therefore, please confirm by June 3, 2011 that the City will return the 25K to the Receiver (or credit that amount to the current water account). If not, my instructions are to bring the necessary motion to secure that refund. The Receiver will be seeking full indemnity costs from the City on the basis that the City is either breaching the Receivership order, or attempting to secure an improper preference over Craiglee's other unsecured creditors.

---

**From:** Michael Gouthro [mailto:mgouthr@toronto.ca]

**Sent:** May 27, 2011 2:29 PM

**To:** Eric Golden

**Cc:** Henderson, Christopher J

**Subject:** RE: Craiglee Nursing Home

Eric,

I have reviewed this matter with my client and can advise that the City's position is as follows.

The Order of Justice Campbell dated April 28, 2009 authorizes the Receiver to operate and carry on the business of the debtor in the normal course.

The monies paid by the Receiver to the City on December 15, 2010 represent payment of current charges and arrears owing in respect to the consumption of water from the City to November 17, 2010.

The Receiver paid the water arrears owing, for the period ending November 17, 2010, to the City of its own volition. The monies were duly owed by the debtor to the City and the payment was applied against the debtor's outstanding account by the City. The City's receipt of the payment for water arrears was not prohibited by the aforesaid Order.

In the circumstances, the City is not prepared to refund or otherwise credit against current or future charges the amount paid in respect to water arrears by the Receiver, as demanded by the Receiver. Further, there is no debt owing by the City to the Receiver and, as such, there is no mutuality of debts and, consequently, no set off available to the Receiver.

We would be pleased to reconsider this above position if you can provide a definitive legal basis obligating the City to reimburse the funds to the Receiver. Please note, in such event, the City would add the arrears and any accrued penalties and interest to the tax roll of the applicable real property in accordance with the *City of Toronto Municipal Code* and *City of Toronto Act, 2006*.

With respect to your email advising that the Receiver intends to cease any further payment of current water accounts until the amounts paid by the Receiver to the City in respect to water arrears are recovered, please note paragraph 13 of the aforesaid Order containing the proviso that any continuation of utility services is contingent on payment for all such goods and services by the Receiver. Further, any arrears, penalties and interest thereby accruing shall be charged to the account of the Receiver.

Regards,

Mike Gouthro  
Senior Solicitor  
City of Toronto, Legal Services Division  
Metro Hall, 26th Fl.  
Toronto, Ontario  
M5V 3C6

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>>> "Eric Golden" <egolden@blaney.com> 5/24/2011 3:28 PM >>>  
Michael,

I have not heard from you or anyone else at the City with respect to this matter since your email of May 4, 2011 below.

As a result, you have left my client with no alternative but to place a freeze on payment of the Craiglee water accounts until I either hear back from you with respect to the 25K credit owing to my client, or if I don't hear back from you until my client has set-off the 25K that it is owed.

---

**From:** Eric Golden  
**Sent:** May 13, 2011 2:21 PM  
**To:** 'Michael Gouthro'  
**Cc:** Christopher J Henderson  
**Subject:** RE: Craiglee Nursing Home

Michael,

It's now been over a month, and I still don't have a proper response back from the City. What's the hold up? The City is in receipt of funds that a Receivership Order states it was not entitled to.

The current Craiglee water bill is for \$3,986.00. Perhaps it would be easier from an admin standpoint if the City simply credited my client the \$24,810.90 that is owing to it, and have all future water bills paid from this credit until such time as the 25K credit is extinguished. Alternatively, if this matter is not resolved by next week (by way of a refund or credit), my client may simply exercise its right of set off with respect to the water accounts until such time as the 25K credit is extinguished, or I receive a proper response from the City.

I look forward to hearing from you.

---

**From:** Eric Golden  
**Sent:** May 04, 2011 2:20 PM  
**To:** Michael Gouthro  
**Subject:** RE: Craiglee Nursing Home

Michael,

It's been almost a month since I contacted Chris Henderson, and the Receiver was in touch with him before that. I provided Chris with the relevant documents. I'd therefore appreciate a response by next week, and I've diarized for next Friday. As per below, we've done this dance before with Rodney Gill, so if you need any assistance in getting up to speed, I'm sure Rodney can assist.

---

**From:** Michael Gouthro [mailto:mgouthr@toronto.ca]  
**Sent:** May 04, 2011 2:04 PM  
**To:** Eric Golden; Henderson, Christopher J  
**Subject:** RE: Craiglee Nursing Home



000139

Mr. Golden,

Once I am in receipt of the file documentation and have had an opportunity to review this matter and receive instructions from my client, I will advise as to the City's position regarding this matter.

Regards,

Mike Gouthro  
Senior Solicitor  
City of Toronto, Legal Services Division  
Metro Hall, 26th Fl.  
Toronto, Ontario  
M5V 3C6  
416-392-8037

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>>> "Eric Golden" <egolden@blaney.com> 5/4/2011 9:33 AM >>>  
Thx.

Michael - as set out below Rodney Gill handled a related matter not that long ago, so he is up to speed on the Receivership. Please let me know when I can expect the refund.

---

**From:** Christopher J Henderson [mailto:chender3@toronto.ca]  
**Sent:** May 04, 2011 9:25 AM  
**To:** Eric Golden  
**Cc:** Gouthro, Michael  
**Subject:** RE: Craiglee Nursing Home

Hi Eric:

My colleague Mr. Gouthro from the City's Municipal Law section has taken over this file as its not a Litigation matter. This matter came to me only in passing while speaking to the client division about another unrelated matter. I've copied him on this email.

Regards,

Chris

>>> "Eric Golden" <egolden@blaney.com> 5/4/11 9:16 AM >>>  
Hi Chris,

Just following up on the email below. When can I expect to receive the refund?

---

**From:** Eric Golden  
**Sent:** April 14, 2011 12:22 PM  
**To:** Christopher J Henderson  
**Cc:** Rodney Gill  
**Subject:** RE: Craiglee Nursing Home

Thx Chris.

There were some water fines added to the tax roll not too long ago. A City lawyer named Rodney Gill handled and had the fines removed. He's likely the person to get involved as he is familiar with the background to this Receivership. I have cc'd him on this email.

---

**From:** Christopher J Henderson [mailto:chender3@toronto.ca]

**Sent:** April 14, 2011 12:13 PM

**To:** Eric Golden

**Subject:** Re: Craiglee Nursing Home

Eric:

This matter is going to be handled by one of the lawyers who provide solicitor advice to Toronto Water. It came to me as a quick, one-off question from a client Division for whom I do a great deal of litigation work, but I'm a litigation lawyer and its not a litigation matter.

I've passed your name, contact information and the file to a solicitor for Toronto Water. One of them should be in contact with you soon.

Regards,

Chris

>>> "Eric Golden" <egolden@blaney.com> 4/13/11 1:49 PM >>>

Hi again Chris,

Just following up on the email below. I've also attached all of the water bills since the Receivership. Please advise when the Receiver can expect its refund from the City.

---

**From:** Eric Golden

**Sent:** April 06, 2011 2:28 PM

**To:** Christopher J Henderson

**Subject:** RE: Craiglee Nursing Home

Hi Chris,

See attached Receivership Order dated April 28, 2009. I refer you to paragraphs 10, 11, 12 and 13. Craiglee Nursing Home was placed in Receivership on April 28, 2009 - all of its outstanding debts and liabilities were stayed. Even Desjardins, the secured mortgage lender that moved for the appointment of the Receiver, has not received any payments under its mortgage since the Receiver was appointed.

The first Water & Solid Waste Utility Bill from the City post-Receivership that I could locate is attached and dated June 17, 2009. You'll note the balance forward of \$21,307.91. Whatever the balance was as of April 28, 2009, that is the balance that was to be stayed as per the attached Order. In December, 2010, Extendicare (the 3rd party retained to administer the Craiglee Nursing Home during the Receivership), sent the City a payment for \$28,326.46. Of this amount, \$24,810.90 should not have been paid as it represented pre-Receivership debt. I've attached the invoice confirming payment. From what I understand, since the outstanding balance for pre-Receivership liabilities kept appearing on the Utility invoice, someone simply paid it in error.

The Receivership is still going on, and Extendicare is still administering the Nursing Home.

Please let me know how the City proposes to refund the payment for \$24,810.90 that was made. If it could simply cut a cheque back to the Receiver (Deloitte & Touche LLP) that would be great.

**From:** Christopher J Henderson [mailto:chender3@toronto.ca]  
**Sent:** April 06, 2011 12:35 PM  
**To:** Eric Golden  
**Subject:** Craiglee Nursing Home

000141

Hi Eric:

Just want to make sure you had my correct email address.

Please send me a scanned copy of that Receivership Order you mentioned at your earliest convenience.

Regards,

Chris

---

Christopher J. Henderson, M.P.A., LL.B.  
Lawyer



Litigation Section, Legal Services Division  
26th Floor, Metro Hall, Station 1260  
55 John Street, Toronto, ON M5V 3C6

Tel: (416) 397-7106 Fax: (416) 392-1199  
Email: [chender3@toronto.ca](mailto:chender3@toronto.ca)

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If you have received this email in error, please notify the sender immediately.  
Thank you.

# TAB J

**Sharm Sowa**

**From:** Eric Golden  
**Sent:** June-14-11 2:35 PM  
**To:** Michael Gouthro  
**Subject:** RE: Craiglee Nursing Home Limited - Disputed water account arrears & boilers

Michael,

Your email below of June 9, 2011 to the purchaser of the Craiglee nursing home has been forwarded to me.

It's one thing for you to take positions with no basis in law against the Receiver and its lawyers in an attempt to hold onto a 25K payment that you know was made to the City in error.

To do so to with the purchaser takes matters to an entirely different level. As you know, the Receiver will be seeking full indemnity costs against the City related to its motion concerning the return of the 25K. It will now also be relying in part on your email below to support that position.

— Forwarded by Travis Vogel/mtca on 06/09/2011 03:57 PM —

"Michael Gouthro" <[mgouthro@toronto.ca](mailto:mgouthro@toronto.ca)>

06/09/2011 12:10 PM

To "Travis Vogel" <[tvogel@millerthomson.com](mailto:tvogel@millerthomson.com)>

cc "Christopher J Henderson" <[chender3@toronto.ca](mailto:chender3@toronto.ca)>, "John Longarini" <[jlongar@toronto.ca](mailto:jlongar@toronto.ca)>, "Tina Distefano" <[tdistefa@toronto.ca](mailto:tdistefa@toronto.ca)>

Subject Re: 102 Craiglee Drive

Miller Thomson  
 Accelerator Building  
 295 Hagey Blvd., Suite 300  
 Waterloo, ON  
 N2L 6R5

Attention: Travis Vogel

Mr. Vogel,

Please find attached the water & tax certificates in respect to your account inquiry for 102 Craiglee Drive. Both the attached water & tax certificates are qualified by the following.

Please note that the Receiver in respect to the above-noted property has disputed a credit applied by the City to the water account in respect to pre-Receiver'ship water arrears for this property. In the event that the credit is reversed, the City reserves the right to add back to the account the arrears in the amount of \$24,810.90 plus any associated interest and penalties and to add any such amounts to the tax roll of the property as may be permitted by Chapters 441 and 849 of the City of Toronto *Municipal Code*, section 264 of the *City of Toronto Act, 2006* and applicable law.

Regards,

Mike Gouthro

Senior Solicitor  
City of Toronto, Legal Services Division  
Metro Hall, 26th Fl.  
Toronto, Ontario  
M5V 3C6  
416-392-8037

000143

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# TAB K

000144

**AGREEMENT OF PURCHASE AND SALE**

**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,  
as Vendor**

**— and —**

**SAC 4 INC.,  
as Purchaser**

**April 1, 2011**



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**SCHEDULES**

**EXHIBITS**

**AGREEMENT OF PURCHASE AND SALE**

**THIS AGREEMENT** is dated as of April 1, 2011

**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 -

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

(the "**Purchaser**")

**CONTEXT:**

**A.** Pursuant to the Appointment Order (as defined herein), Deloitte & Touche Inc. was appointed interim receiver and receiver and manager (the "**Receiver**") of the current and future assets, properties and undertakings of the Debtor (as defined below) pursuant to Section 47 of the *Bankruptcy and Insolvency Act* (Canada) and Section 101 of the *Courts of Justice Act* (Ontario).

**B.** The Vendor wishes to sell and the Purchaser wishes to purchase the Assets (as defined below) upon and subject to the terms and conditions of this Agreement.

**FOR GOOD AND VALUABLE CONSIDERATION**, the parties agree as follows:


**ARTICLE 1  
INTERPRETATION****1.1 Definitions**

In this Agreement the following terms have the following meanings:

"**9 Vanbrugh Assets**" means the right, title and interest of the Debtor or the Vendor, if any, in and to the land and premises, known municipally as 9 Vanbrugh Avenue, Toronto, Ontario, including the Building and Fixtures located therein.

"**Acceptance Date**" means the date this Agreement is executed by each of the parties hereto.

"**Accrued Payroll**" means the portion of the payroll which has been earned by the Assumed Employees as at the Closing Date but which has not been paid.



**"Affiliate"** means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by, or is under direct or indirect common control with, such Person, and includes any Person in like relation to an Affiliate. A Person shall be deemed to control a Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise; and the term "controlled" shall have a similar meaning.

**"Agreement"** means this agreement, including all Schedules and Exhibits, as it may be supplemented, amended, restated or replaced from time to time by written agreement between the parties.

**"Applicable Law"** means, at any time, with respect to any Person, property, transaction or event, all applicable laws, statutes, regulations, treaties, judgments and decrees and (whether or not having the force of law) all applicable official directives, rules, consents, approvals, by-laws, permits, authorizations, guidelines, orders and policies of any governmental or regulatory body or Persons having authority over that Person, property, transaction or event.

**"Appointment Order"** means the order of the Court dated April 28, 2009 appointing Deloitte & Touche Inc. as Receiver of the Debtor, a copy of which is attached hereto as Schedule "1".

**"Approval and Vesting Order"** is defined in Section 4.3(a) hereof.

**"Arbitrator"** is defined in Section 2.8(g)(i) hereof.

**"Assets"** means the right, title and interest of the Debtor or Vendor, if any, in and to the Craiglee Nursing Home Assets and the 9 Vanbrugh Assets.


**"Assumed Contracts"** is defined in Section 2.2 hereof.

**"Assumed Employees"** means collectively, the Assumed Salaried Employees and the Unionized Employees.

**"Assumed Employee Liabilities"** means the unused and outstanding sick pay credit obligations of the Assumed Employees attributable to the period prior to the Closing Date.

**"Assumed Obligations"** means: (i) all obligations and liabilities of the Debtor and the Vendor under the Assumed Contracts that the Purchaser has agreed to assume as of the Closing Date by way of separate and specific written agreement with the Vendor or party or parties to whom the relevant obligations and liabilities are owed; and (ii) the Assumed Employee Liabilities.

**"Assumed Salaried Employees"** means Salaried Employees who accept offers of employment made by the Purchaser in accordance with the provisions of Section 2.11 hereof, but excluding the Unionized Employees.



**"Benefit Plans"** means any of the following (whether written, unwritten or terminated): (a) any employee welfare benefit plan, including but not limited to, any medical plan, life insurance plan, short term or long term disability plan and dental plan; and, (b) any employee pension plan, including, but not limited to any supplemental or excess pension plan, any deferred compensation plan, any registered pension plan or any other arrangement under which employees are provided with retirement income; in each case, provided, sponsored, administered or contributed to by the Debtor in relation to the Assumed Employees.

**"Books and Records"** means:

- (a) all plans and specifications in the Vendor's possession or under its control relating to the Buildings and Fixtures situate on or forming part of the Owned Real Property including, without limiting the generality of the foregoing, all such electrical, mechanical and structural drawings related thereto as are in the possession or under the control of the Vendor; and
- (b) all personnel records, inspection records and other records, books and accounting records, documents and databases relating to the operation of the Business as are in the possession or under the control of the Vendor.

**"Buildings and Fixtures"** means all plant, buildings, structures, erections, improvements, appurtenances and fixtures situate on the Owned Real Property on the Closing Date.

**"Business"** means the business carried on at the Owned Real Property on the Closing Date in any way related to the operation of a long-term care facility at the said location.


**"Business Day"** means any day other than a Saturday, Sunday or statutory holiday in the Province of Ontario or any other day on which the principal chartered banks located in the City of Toronto are not open for business during normal banking hours.

**"Business Names"** means the name Craiglee Nursing Home.

**"Closing"** means the successful completion of the Transaction.

**"Closing Date"** means the date which is thirty (30) days immediately following the later of written confirmation from the Vendor to the Purchaser that: (a) the Approval and Vesting Order has been granted, and (b) the MOH has approved the purchase by the Purchaser contemplated under this Agreement and the MOH has issued or approved the Purchaser for transfer of the Licence(s) or for issue of licences similar to the Licence(s) to the Purchaser; or such earlier date as agreed by the parties, but in no event will the Closing Date be later than March 15, 2012.

**"Collective Agreement"** means the collective agreement between the Debtor and the Service Employees International Union Local 204 as more particularly described in Schedule "2" attached hereto.



**"Communication"** means any notice, demand, request, consent, approval or other communication which is required or permitted by this Agreement to be given or made by a party.

**"Confidential Information"** means any and all data and information, financial or otherwise, with respect to the Business disclosed by the Vendor, its representatives or agents, including without limitation Extencicare, to the Purchaser other than data or information which was in the public domain prior to the date of receipt by the Purchaser.

**"Contracts"** means the Collective Agreement, the Leases and the other agreements listed in Schedule "2" attached hereto.

**"Court"** means the Ontario Superior Court of Justice (Commercial List).

**"Craiglee Nursing Home Assets"** means the right, title and interest of the Debtor or the Vendor, if any, in and to the land and premises known municipally as 94, 96, & 102 Craiglee Drive, Toronto, Ontario and 10 Sharpe Street, Toronto, Ontario and the Buildings and Fixtures, Equipment and Inventory located therein, and the Business Names, Receivables, Intangibles, Assumed Contracts, Books and Records and Licences used in the Business but specifically excludes the Excluded Assets.

**"Debtor"** means Craiglee Nursing Home Limited.

**"Deposits"** is defined in Section 2.7(b) hereof.

**"Due Diligence Condition"** is defined in Section 4.1(a) hereof.

**"Due Diligence Period"** means the period commencing on the Acceptance Date to and including the date which is seventy five (75) days immediately thereafter.

**"Employee Liabilities"** means all wages, statutory deductions, remittances, assessments, bonuses, vacation pay, sick leave credits, severance pay, termination pay, amounts paid in lieu of notice, payments under the Collective Agreements for the Unionized Employees and any other remuneration, benefits and deductions for all the Employees, including without limitation pension plan contributions and any other amounts required to be paid in respect of pension plans in which the Employees participate, that become due and payable after the Closing Date.


**"Employee Liabilities Adjustment"** is defined in Section 2.8(a)(i) hereof.

**"Employee List"** is defined in Section 2.15 hereof.

**"Employees"** means collectively, the Salaried Employees and the Unionized Employees.

**"Equipment"** means the equipment and tools of the Debtor and/or the Vendor located at the Owned Real Property and used in the Business.

**"ETA"** means the *Excise Tax Act* (Canada).



**"Excluded Assets"** means the following property and assets of the Vendor pertaining to the Business and all documents, books, accounts, records and other information relating to that property and those assets:

- (a) all cash, bank balances, money in possession of banks and other depositories, term or time deposits and similar cash or cash equivalents of, owned or held by or for the account of the Business;
- (b) all policies and procedures, programs, manuals and documentation that are proprietary to Extendicare; and
- (c) all the corporate, financial and other records of the Vendor not pertaining to the operation of the Business.

**"Extendicare"** means Extendicare (Canada) Inc., in its capacity as the manager of the Business.

**"Financing Condition"** is defined in Section 4.1(b) hereof.

**"First Deposit"** is defined in Section 2.7(a) hereof.

**"Governmental Authority"** means:

- (a) any federal, provincial, local, municipal, regional, territorial, aboriginal, or other government, governmental or public department, branch, ministry, or court, domestic or foreign, including any district, agency, commission, board, arbitration panel or authority and any subdivision of the foregoing exercising or entitled to exercise any administrative, executive, judicial, ministerial, prerogative, legislative, regulatory or taxing authority or power of any nature; or
- (b) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing.

**"HST"** means all harmonized sales taxes payable under the ETA.

**"Intangibles"** means the choses in action and other similar rights or claims directly related to the Business.

**"Inventory"** means the inventory of the Debtor and Vendor located at the Owned Real Property and used in the Business.

**"Leases"** means the leases and occupancy agreements for the residents of the Business as set out in the rent roll attached to Schedule "5" attached hereto.

**"Licence(s)"** means the licences listed in Schedule "3" attached hereto.

**"MOH"** means the Ontario Ministry of Health and Long-Term Care.

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**"MOH Closing Adjustment"** is defined in Section 2.8(c) hereof.

**"Owned Real Property"** means the lands and premises more particularly described in Schedule "4" attached hereto.

**"Permitted Encumbrances"** means the encumbrances and other documents affecting title to the Owned Real Property, as described in Schedule "4" attached hereto, which shall be accepted and/or assumed on Closing by the Purchaser.

**"Person"** means an individual, body corporate, sole proprietorship, partnership or trust or unincorporated association, unincorporated syndicate, unincorporated organization, or another entity, and a natural person, acting in his or her individual capacity or in his or her capacity as executor, trustee, administrator or legal representative, and any Governmental Authority.

**"Purchase Price"** means the sum of [REDACTED] in lawful money of Canada.

**"Purchaser's Solicitors"** means the firm of Miller Thomson, LLP, Accelerator Building 295 Hagey Blvd., Suite 300, Waterloo ON N2L 6R5 Attention: Dwayne Kuiper, Telephone No. (519) 593-3243, Facsimile No. (519) 743-2540.

**"Receivables"** means all accounts receivable, bills receivable, trade accounts, book debts and insurance claims directly or indirectly used in, arising from, or relating in any manner to the Business together with any unpaid interest accrued on such items (and expressly excluding any account between the Vendor and Extendicare).

**"Resident Trust Funds"** means all money held by the Vendor on behalf of the residents of the Business.


**"Salaried Employees"** means all persons who are employed in the Business, as at the Closing Date, including those on short term disability leave, maternity leave or other permitted leave, but excluding the Unionized Employees.

**"Second Deposit"** is defined in Section 2.7(b) hereof.

**"Transaction"** means the transaction of purchase and sale contemplated by this Agreement.

**"Unionized Employees"** means all persons who are employed in the Business as at the Closing Date, whose employment is governed by the Collective Agreement.

**"Vendor's Solicitors"** means the firm of Blaney McMurtry, LLP, Barristers & Solicitors, 2 Queen Street East, Suite 1500, Toronto, Ontario M5C 3G5, Attention: Eric Golden, Telephone No. (416) 593-3927, Telecopier No. (416) 593-5437.





## **1.2 Entire Agreement**

This Agreement, together with the agreements and other documents to be delivered pursuant to this Agreement, constitute the entire agreement between the parties pertaining to the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties, and there are no representations, warranties or other agreements between the parties in connection with the subject matter of this Agreement except as specifically set out in this Agreement or the other agreements and documents delivered pursuant to this Agreement.

## **1.3 Time of Day**

Unless otherwise specified, references to time of day or date mean the local time or date in the City of Toronto, Province of Ontario.

## **1.4 Business Day**

Whenever any payment to be made or action to be taken under this Agreement is required to be made or taken on a day other than a Business Day, the payment is to be made or action taken on the next Business Day following.

## **1.5 Governing Law and Attornment**

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 the Province of Ontario. Each of the parties hereby irrevocably and unconditionally attorns to the exclusive jurisdiction of the courts of the Province of Ontario.

## **1.6 Certain Rules of Interpretation**

- (a) 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".
- (b) 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.
- (c) Wherever in this Agreement reference is made to a calculation to be made in accordance with GAAP, the reference is to the GAAP from time to time approved by the Canadian Institute of Chartered Accountants, or its successor, applicable as at the date on which the calculation is made or required to be made in accordance with GAAP.
- (d) References in this Agreement to an Article, Section, Schedule or Exhibit are to be construed as references to an Article, Section, Schedule or Exhibit of or to this Agreement unless the context requires otherwise.

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- (e) Unless otherwise specified in this Agreement, time periods within which or following which any payment is to be made or act is to be done will be calculated by excluding the day on which the period commences and including the day on which the period ends. If the last day of a time period is not a Business Day, the time period will end on the next Business Day.
- (f) Unless otherwise specified, any reference in this Agreement to any statute includes all regulations made thereunder or in connection therewith from time to time, and is to be construed as a reference to such statute as amended, supplemented or replaced from time to time.

### 1.7 Schedules and Exhibits

The following is a list of Schedules and Exhibits:

Schedule	Subject Matter	Section Reference
1	Appointment Order	1.1
2	Contracts	2.2
3	Licenses	1.1
4	Owned Real Property	2.4
5	Leases Rent Roll	1.1

Exhibit	Subject Matter	Section Reference
Exhibit A	Form of Approval and Vesting Order	4.3
Exhibit B	Form of Bill of Sale and Assignment	5.2

## ARTICLE 2 SALE AND PURCHASE AND ASSIGNMENT

### 2.1 Sale and Purchase of Assets

Subject to the terms and conditions of this Agreement, the Vendor will sell to the Purchaser and the Purchaser will purchase the Assets on the Closing Date. The Purchaser acknowledges that it is not purchasing any other property or assets of the Debtor other than the Assets.

### 2.2 Assignment and Assumption of Contracts

The Purchaser shall have until expiration of the Due Diligence Period to advise the Vendor in writing of those Contracts it wishes to assume on Closing (the "Assumed Contracts"), failing which, the Purchaser shall be deemed to have agreed to assume all Contracts on Closing.

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Provided that notwithstanding the foregoing, the Purchaser shall be obligated to assume the Leases and the Collective Agreement and Benefit Plans on Closing. Subject to the conditions and terms of this Agreement, the Vendor will assign to the Purchaser all of the Debtor's rights, benefits and interests in and to the Assumed Contracts, if any, and the Purchaser will assume the Assumed Obligations, save and except as otherwise specified herein. For greater certainty, the Purchaser shall not be responsible for performance of any Contracts not assumed by the Purchaser.

This Agreement and any document delivered under this Agreement will not constitute an assignment or an attempted assignment of any Contract contemplated to be assigned to the Purchaser under this Agreement which is not assignable without the consent of a third party if such consent has not been obtained and such assignment or attempted assignment would constitute a breach of such Contract or, in the alternative, if an order of the Court authorizing and approving the assignment of the Contracts to the Purchaser has not been obtained. At the option of the Vendor, any such assignment may be made in the name of and on behalf of the Debtor.

### 2.3 "As is, Where is"

The Purchaser acknowledges that, subject to Sections 3.2 and 5.8 hereof, the Vendor is selling the Assets on an "as is, where is" basis as they exist on the Closing Date. The Purchaser further acknowledges that it has entered into this Agreement on the basis that the Vendor does not guarantee title to the Assets and that the Purchaser has conducted or will have conducted during the Due Diligence Period such inspections of the condition of and title to the Assets as it deems appropriate and has satisfied itself with regard to these matters. No representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition, quantity or quality, assignability or in respect of any other matter or thing whatsoever concerning the Assets or the right of the Vendor to sell them save and except as expressly represented or warranted in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) or similar legislation do not apply to this transaction of purchase and sale and have been waived by the Purchaser. The description of the Assets contained in the Schedules is for purposes of identification only. No representation, warranty or condition has or will be given by the Vendor concerning completeness or the accuracy of such descriptions.

### 2.4 Owned Real Property

The Purchaser acknowledges that unless written notice of non satisfaction is provided pursuant to Sections 4.1(a) and 4.5 hereof, it has, at its own expense, examined title to the Owned Real Property and satisfied itself as to the state thereof, and satisfied itself as to:

- (a) outstanding work orders affecting the Owned Real Property; and
  - (b) the use of the Owned Real Property being in accordance with applicable zoning requirements and satisfied itself that the Buildings and Fixtures may be insured to the satisfaction of the Purchaser.
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The Purchaser further acknowledges that, notwithstanding any statutory provisions to the contrary, the Purchaser has no right to submit requisitions on title or in regard to any outstanding work orders, deficiency notices or orders to comply issued by any Governmental Authority and the Purchaser will accept the title to the Owned Real Property, except as otherwise provided in this Agreement.

The Vendor consents to Governmental Authorities releasing to the Purchaser details of all outstanding municipal work orders or deficiency notices affecting the Owned Real Property and it will execute any authorizations in connection therewith, provided that such consent shall not provide for any inspections to be conducted by any such Governmental Authority.

## 2.5 Assumed Obligations

In connection with its acquisition of the Assets, the Purchaser will assume the Assumed Obligations on Closing. On Closing, to the extent necessary, the Purchaser will enter into an assumption agreement in form and substance satisfactory to each of the Purchaser and the Vendor, acting reasonably. The Purchaser acknowledges that the Vendor will have no responsibility whatsoever for curing any defaults, paying any arrears, or performing any obligations under or with respect to the Assumed Contracts, save and except as otherwise specified herein.

## 2.6 Excluded Obligations

Other than the Assumed Obligations, the Purchaser will not assume and will not be liable for any other liabilities or obligations of the Debtor.

## 2.7 Payment of the Purchase Price

The Purchase Price shall be paid, accounted for and satisfied as follows:

- (a) by the Purchaser delivering to the Vendor's Solicitors, in trust, the sum of One Hundred Thousand (\$100,000) Dollars within three (3) Business Days following the Acceptance Date (the "**First Deposit**"), which sum shall be held by the Vendor's Solicitors, in trust, as a deposit pending Closing or termination of this Agreement;
  - (b) by the Purchaser delivering to the Vendor's Solicitors, in trust, the further sum of Three Hundred Thousand (\$300,000) Dollars within three (3) Business Days following waiver of the Due Diligence Condition (the "**Second Deposit**"), which sum shall be held by the Vendor's Solicitors, in trust, as a deposit pending Closing or termination of this Agreement (the First Deposit and the Second Deposit hereinafter collectively referred to as the "**Deposits**"); and
  - (c) the balance of the Purchase Price, after crediting the Deposits and the Deposit Interest (as hereinafter defined) and subject to the adjustments to Purchase Price set forth in Section 2.8 hereof, by payment at Closing to the Vendor or as it may otherwise direct in writing by way of certified cheque, bank draft or wire transfer.
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The Vendor and the Purchaser agree and hereby authorize and direct the Vendor's Solicitors to invest the Deposits in an interest-bearing term deposit or interest-bearing account of a Canadian chartered bank bearing current market rate of interest, which interest (the "**Deposit Interest**") shall be paid or credited to the Purchaser at the Time of Closing, unless the Purchaser forfeits the Deposits as provided below in which event the Deposit Interest will be paid to the Vendor.

Unless otherwise agreed, all amounts payable to the Vendor either by way of Deposits or at the Time of Closing will be paid to the Vendor by certified cheque or bank draft of a major Canadian bank listed in Schedule I to the Bank Act (Canada) or by wire transfer. The Purchaser acknowledges and agrees that the Deposits and Deposit Interest are non-refundable save and except as provided under Section 5.10 hereof.

## **2.8 Adjustments to Purchase Price**

The Purchase Price shall be subject to the adjustments set out below:

### **(a) Adjustment for Certain Employee Liabilities.**

- (i) All unpaid amounts accrued or owing as at Closing to the Assumed Employees and for which the Purchaser becomes liable at or after Closing for Accrued Payroll, vacation pay, pension contributions, bonuses and entitlements (and expressly excluding any severance pay and termination pay) in respect of their employment with the Business shall be credited against the Purchase Price unless such amounts have been paid by the Vendor such that there is no recourse against the Purchaser, (the "**Employee Liabilities Adjustment**").
- (ii) The Vendor shall prepare and provide to the Purchaser at least four (4) Business Days before the Closing Date, a statement of the calculation of the Employee Liabilities Adjustment as of the Closing Date, together with relevant supporting documentation, satisfactory to the Purchaser, acting reasonably.

### **(b) Owned Real Property Adjustments.**

Real property taxes, local improvement rates, water/garbage rates, utilities/fuel costs, monthly amounts paid or payable by the MOH for the month in which the Closing occurs, and amounts payable in respect of Leases and any Assumed Contract and other usual and customary items which are the subject of commercial real property retirement and long term care facility transaction adjustments (and expressly excluding the Collective Agreement, Benefit Plans and matters provided for in the Employee Liabilities Adjustment) shall be adjusted as of the Closing Date.

### **(c) Adjustment for MOH Repayments.**

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 10<sup>th</sup> 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.

- (d) The Vendor shall deliver a statement of adjustments for the items set out in subsections (a) to (c) above to the Purchaser at least three (3) Business Days before Closing together with an up to date rent roll of the Leases and such other background information as may be reasonably required to complete and verify the items on the statement of adjustments, and the parties shall undertake to readjust any item on or omitted from the statement of adjustments except the MOH Closing Adjustment for a period of six (6) months from Closing.

- (e) **No Adjustments for Inventory.**

There shall be no adjustment to the Purchase Price in favour of the Vendor on account of Inventory.

- (f) **No Adjustments for Receivables**

The Receivables shall become the property of the Purchaser on Closing and shall be collected by the Purchaser on its own account thereafter. There shall be no adjustment to the Purchase Price in favour of the Vendor on account of the Receivables.

- (g) **Adjustment Dispute Resolution.**

- (i) Should there be any dispute concerning the calculation of the Employee Liabilities Adjustment, the Owned Real Property adjustments and/or the MOH Closing Adjustment that remains 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, the Owned Real Property adjustments and/or the MOH Closing Adjustment 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 actual Employee Liabilities Adjustment, the Owned Real Property adjustments and/or the MOH Closing Adjustment as of the Closing Date. The parties agree that

such resolution and determination shall be final and binding on the Vendor and the Purchaser.

- (ii) The Arbitrator shall use commercially reasonable efforts to complete its work within thirty (30) days of its engagement. The expenses of the Arbitrator shall be shared equally by the Vendor and the Purchaser, or as otherwise determined by the Arbitrator.
- (iii) The Vendor's Solicitors shall pay out the funds held for these adjustments with interest earned thereon, if any, in accordance with the direction of the Vendor and the Purchaser if they agree or in accordance with the Arbitrator's decision on receipt thereof, without further inquiry.

## 2.9 Allocation of Purchase Price

[INTENTIONALLY DELETED]

## 2.10 Taxes

- (a) The Purchaser will be responsible for all registration fees and land transfer taxes payable in connection with the Transaction.
- (b) The Purchaser will pay upon Closing, all land transfer taxes, HST and any other applicable federal, provincial and municipal taxes exigible on the transfer and sale. Alternatively, where applicable, the Purchaser may furnish the Vendor with appropriate exemption certificates including for the Owned Real Property a warranty and indemnity that includes the Purchaser's HST registration number in form satisfactory to the Vendor's solicitors, acting reasonably.
- (c) The Purchaser agrees to indemnify and save the Vendor harmless from and against all claims and demands for payment of all applicable transfer and sale taxes including penalties and interest and any liability or costs incurred as a result of any failure to pay such taxes when due. Notwithstanding the foregoing and for greater certainty, the Purchaser shall not be responsible for the payment of any taxes exigible on the Vendor or the Debtor in connection with the transactions contemplated herein.

## 2.11 Assumed Salaried Employees

- (a) On or before the Closing Date and subject to Closing, the Purchaser will offer employment to at least 75% of the Salaried Employees as agreed upon by the Purchaser, after conducting its due diligence on substantially the same terms and conditions as they had been employed by the Vendor. Such employees who are offered employment shall be referred to as the "Transferred Employees". Prior to the expiry of the Due Diligence Period, the Purchaser shall determine which employees it intends to offer employment. The Purchaser in making the offer of employment will recognize the seniority and years of service of such Transferred Employees for purposes of the *Employment Standards Act (Ontario)*, as amended,

only. The Vendor will be responsible for all payments to be made and all expenses, costs and other liabilities and obligations of any kind whatsoever arising out of or in connection with the termination of those employees who are not offered employment by the Purchaser.

- (b) The Purchaser acknowledges and agrees that:
  - (i) the Vendor makes no representation or warranty that any Salaried Employee will accept employment with the Purchaser, and
  - (ii) the acceptance by Assumed Salaried Employees of offers of employment with the Purchaser will not constitute a condition to the Purchaser's obligation to complete the Transaction.

## 2.12 Unionized Employees

- (a) In accordance with Applicable Law, the Purchaser shall become the successor employer under the Collective Agreement with respect to the Unionized Employees whose employment is governed by the Collective Agreement and shall be bound by and comply with the terms of the Collective Agreement.
- (b) Effective as of the Closing Date, the Purchaser shall assume all of the Debtor's liabilities and obligations (and the liabilities and obligations of the Vendor, if any) under the Collective Agreement, including all of the Debtor's liabilities and obligations (and the liabilities and obligations of the Vendor, if any) under the Benefit Plans.

## 2.13 Intentionally Deleted

[INTENTIONALLY DELETED]

## 2.14 Notice of Change of Employment

The Purchaser may give such notice to the Assumed Employees concerning the change of their employer with respect to the Business as the Purchaser, in light of Applicable Law, considers reasonable.

## 2.15 Employee List

Prior to expiration of the Due Diligence Period, the Vendor shall provide the Purchaser with a current list of Employees (the "**Employee List**"), in a format to be agreed upon by both of the parties hereto, each acting reasonably. The Employee List shall include for each Employee their name, job title, hire date, wage or salary rate, amount of accrued vacation pay and rate that vacation pay accumulates, amount of accrued sick leave credits, and a job duty outline, and for hourly employees, the number of hours generally worked per week. At least ten (10) Business Days before the Closing Date, the Vendor shall deliver to the Purchaser an up-to-date Employee

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List of all Employees as at such date certified by an officer of the Vendor verifying to the extent of its knowledge the accuracy of the contents thereof. On the Closing Date, the Vendor shall also deliver to the Purchaser a further updated Employee List as at the Closing Date. For the first Employee List, the Vendor will have confirmed the accuracy of the Employee List with the individual Employees prior to providing the Employee List to the Purchaser.

## **2.16 Assumed Employees General**

- (a) Until the Closing Date, subject to the Employee Liabilities Adjustment, the Vendor will be responsible for payment of all wages, statutory deductions, remittances, assessments, bonuses, vacation pay, severance pay, termination pay, amounts paid in lieu of notice, payments under the Collective Agreement for the Unionized Employees and any other remuneration, benefits and deductions for all the Assumed Employees, including without limitation, Benefit Plan premiums and contributions and any other amounts required to be paid in respect of pension plans in which the Assumed Employees participate, that become due and payable prior to the Closing Date. On the Closing Date, the Purchaser will assume the Accrued Payroll and other items in the Employee Liabilities Adjustment for the Assumed Employees, as provided in Section 2.8(a) hereof.
  - (b) Effective as of the Closing Date, the Purchaser will assume the obligations of the Debtor and the Vendor, if any, with respect to the Assumed Employee Liabilities and of the Debtor and the Vendor as sponsor under the Benefit Plans.
  - (c) Except to the extent otherwise imposed by Applicable Law, the Vendor will be responsible for all unpaid workers' compensation amounts, including payroll premiums, non-compliance charges, experience rating surcharges, work week surcharges, levies and penalties relating to the Assumed Employees arising out of events occurring prior to the Closing Date, and the Purchaser will be responsible for all such amounts arising out of events occurring on or after the Closing Date and relating to the Assumed Employees. The Vendor to provide the Purchaser proof of its good standing with the Workers Safety and Insurance Board and confirmation that all such foregoing charges and amounts payable to the Closing Date have been paid.
  - (d) The Vendor agrees to indemnify and save the Purchaser harmless from and against all claims and demands for payment in connection with its responsibility for Employee Liabilities as provided in Sections 2.16(a) and 2.16(c) hereof. The Purchaser agrees to indemnify and save the Vendor harmless from and against all claims and demands for payment in connection with the Employee Liabilities for the Assumed Employees attributable to the period on or after the Closing Date including the Employee Liabilities Adjustment as provided in Section 2.8(a), and its responsibilities as provided in Sections 2.12 and 2.16(b).
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### ARTICLE 3 REPRESENTATIONS AND WARRANTIES


#### 3.1 Purchaser's Representations

The Purchaser represents and warrants to the Vendor that:

- (a) the Purchaser is a limited partnership duly established and subsisting under the laws of Ontario;
- (b) the Purchaser has all the necessary corporate power, authority and capacity to enter into this Agreement and to perform its obligations and the execution and delivery of this Agreement and the consummation of the transactions contemplated have been duly authorized by all necessary corporate actions on the part of the Purchaser;
- (c) the Purchaser is not a party to, bound or affected by or subject to any indenture, agreement, instrument, charter or by-law provision, order, judgment or decree which would be violated, contravened or breached by the execution and delivery by it of this Agreement or the performance by it of any of the terms contained in this Agreement; and
- (d) the Purchaser is not a non-Canadian person as defined in the *Investment Canada Act*.

#### 3.2 Vendor's Representations

The Vendor represents and warrants to the Purchaser that:

- (a) the Vendor has the right to enter into this Agreement and, subject to the granting of the Approval and Vesting Order by the Court, to complete the Transaction;
  - (b) the Vendor is not a non-resident of Canada within the meaning of that term as used in the *Income Tax Act* (Canada);
  - (c) save and except for the charges created pursuant to the Appointment Order, the Vendor has not previously sold or done any act to encumber the Assets;
  - (d) to the best of the Vendor's knowledge, no actions or proceedings are pending and none have been threatened to restrain or prohibit the completion of the Transaction contemplated by this Agreement;
  - (e) the Vendor is the interim receiver and receiver and manager of the Debtor, pursuant to and on the terms of the Appointment Order; and
  - (f) save and except for the Collective Agreement, to the best of the Vendor's knowledge, there are not:
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- (i) any other collective bargaining agreement or contract with any trade union or employee organization in respect of Employees;
- (ii) any current labour negotiations;
- (iii) any threatened strike or other labour stoppage; or
- (iv) any grievance or arbitration made or threatened under the Collective Agreement, except as may be disclosed in writing to the Purchaser prior to the Acceptance Date.

#### ARTICLE 4 CONDITIONS

##### 4.1 Conditions of the Purchaser

The obligation of the Purchaser to complete the Transaction is subject to the fulfillment of each of the following conditions before the Closing Date (unless otherwise specified, or unless otherwise waived by the Purchaser as it may determine in its sole and unfettered discretion):

- (a) the inspections and investigations contemplated in Section 5.6 hereof, the investigation of title to the Owned Real Property and the restrictions on its use and any orders and notices affecting the Owned Real Property and other due diligence by the Purchaser of the Assets and Business shall have been completed and the Purchaser shall be satisfied with the results of those inspections, investigations and such due diligence, including the accuracy of the matters represented and warranted in Section 3.1 hereof prior to expiration of the Due Diligence Period (the "**Due Diligence Condition**");
- (b) the Purchaser shall have finalized financing terms (85% CMHC insured first mortgage) to facilitate the completion of the Transaction prior to expiration of the Due Diligence Period (the "**Financing Condition**");
- (c) the Purchaser shall be satisfied as to any conditions imposed by the MOH on the Transaction within fifteen (15) days of receipt of the terms / conditions imposed by the MOH;
- (d) the Vendor shall have provided a current Phase 1 Environmental Report on the Owned Real Property, acceptable to the Purchaser within sixty (60) days of the Acceptance Date;
- (e) the Purchaser has received approval from the Board of Southbridge Management Services Inc. prior to the expiration of the Due Diligence Period;
- (f) all representations and warranties of the Vendor contained in this Agreement will be true as of the Closing Date with the same effect as though made on and as of that date, excluding the representation in 3.2(f) which is made only as of the Acceptance Date;

- (g) no action or proceedings will be pending or threatened to restrain or prohibit the completion of the Transaction contemplated by this Agreement on the Closing Date;
- (h) the Vendor will have performed each of its obligations under this Agreement to the extent required to be performed on or before the Closing Date; and
- (i) no material loss or damage to the Assets will have occurred on or before the Closing Date, subject to the provisions of Section 5.8 hereof.

The foregoing conditions are for the exclusive benefit of the Purchaser. Any condition may be waived by the Purchaser in whole or in part. Any such waiver will be binding on the Purchaser only if made in writing.

#### 4.2 Conditions of the Vendor

The obligation of the Vendor to complete the Transaction is subject to the fulfillment of each of the following conditions before the Closing Date (unless otherwise specified, or unless otherwise waived by the Vendor in its sole discretion):

- (a) all representations and warranties of the Purchaser contained in this Agreement will be true as of the Closing Date with the same effect as though made on and as of that date;
- (b) no action or proceedings will be pending or threatened to restrain or prohibit the completion of the Transaction contemplated by this Agreement;
- (c) the Purchaser will have performed each of its obligations under this Agreement to the extent required to be performed on or before the Closing Date; and
- (d) no material loss or damage to the Assets will have occurred on or before the Closing Date subject to the provisions of Section 5.8 hereof.

The foregoing conditions are for the exclusive benefit of the Vendor. Any condition may be waived by the Vendor in whole or in part. Any such waiver will be binding on the Vendor only if made in writing.

#### 4.3 Mutual Conditions

The obligations of the Vendor and Purchaser to complete the Transaction are subject to the following conditions being fulfilled or performed at or prior to the Closing:

- (a) On or within 30 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

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Permitted Encumbrances, such order to be substantially in the form of the order attached hereto as Exhibit A (the "Approval and Vesting Order");

- (b) the Approval and Vesting Order will not have been stayed, varied or vacated and no order will have been issued and no action or proceeding will be pending to restrain or prohibit the completion of the Transaction; and
- (c) on or before January 15, 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).

The parties hereto acknowledge that the foregoing conditions are for the mutual benefit of the Vendor and the Purchaser.

#### 4.4 Transfer of Licenses

The Vendor shall make within 10 days of the making of the Approval and Vesting Order the necessary filings of material with the MOH to request the granting of approval of the Transaction including notice of surrender of the Licence(s) on condition the MOH issue licence(s) similar to the Licence(s) to the Purchaser.

The Purchaser shall submit the materials required by the MOH to approve the transfer of the Licence(s) within 45 days of the satisfaction of the Due Diligence Condition and thereafter take all commercially reasonable steps necessary and use due diligence to obtain the licence(s).


#### 4.5 Non-Satisfaction of Conditions

If any condition set out in this Article is not satisfied or performed prior to the time specified therefor, a party for whose benefit the condition is inserted may in writing:

- (a) waive compliance with the condition in whole or in part in its sole discretion by written notice to the other party and without prejudice to any of its rights of termination in the event of non-fulfilment of any other condition in whole or in part; or
- (b) elect by written notice to the other party delivered on or before the date specified for the condition to terminate this Agreement.

#### 4.6 Exclusive Dealings

Until expiration or earlier waiver of the Due Diligence Period, the Vendor shall not take any action, directly or indirectly, to encourage, initiate or engage in discussions or negotiations with, or provide any information to any Person, other than the Purchaser and its designated and authorized representatives, concerning any sale, transfer, assignment, licence, merger or similar transaction involving the Assets.



**ARTICLE 5  
CLOSING****000166****5.1 Closing**

The completion of the Transaction will take place at the offices of the Vendor's Solicitors, on the Closing Date or as otherwise determined by mutual agreement of the parties in writing.

**5.2 Purchaser's Deliveries on Closing**

At or before the Closing Date, the Purchaser will execute and deliver to the Vendor the following, each of which will be in form and substance satisfactory to the Vendor's Solicitors, acting reasonably:

- (a) a bill of sale and assignment substantially in the form of Exhibit B;
- (b) a certificate of a senior officer of the Purchaser dated the Closing Date, confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true as of the Closing Date, with the same effect as though made on and as of the Closing Date;
- (c) a certificate of a senior officer of the Purchaser dated the Closing Date, confirming that each of the conditions precedent in Section 4.1 hereof, other than those previously stated as fulfilled, performed or waived by the Purchaser, have been fulfilled, performed or waived as of the Closing Date;
- (d) an assumption agreement as contemplated by Section 2.5 hereof;
- (e) an undertaking to readjust any item on or omitted from the statement of adjustments as provided for in Section 2.8(d) hereof;
- (f) a mutual indemnity agreement in respect of the Assumed Employees as contemplated by Section 2.16(d) hereof; and
- (g) such further and other documentation as is referred to in this Agreement or as the Vendor may reasonably require to give effect to this Agreement.

The Purchaser shall also deliver the balance of the Purchase Price in accordance with the provisions of Section 2.7(c) hereof.

**5.3 Vendor's Deliveries on Closing**

At or before the Closing Date, the Vendor will execute and deliver to the Purchaser the following, each of which will be in form and substance satisfactory to the Purchaser, acting reasonably:

- (a) a statement of adjustments as contemplated by Section 2.8(d) hereof;


- (b) a bill of sale and assignment substantially in the form of Exhibit B;
- (c) a certificate of an officer of the Vendor dated the Closing Date confirming that all of the representations and warranties of the Vendor contained in this Agreement are true as of the Closing Date, with the same effect as though made on and as of the Closing Date, excluding the representation in section 3.2(f) hereof;
- (d) a certificate of an officer of the Vendor dated the Closing Date confirming that each of the conditions precedent in Section 4.2 hereof have been fulfilled, performed or waived as of the Closing Date;
- (e) an assumption agreement as contemplated by Section 2.5 hereof;
- (f) an undertaking to readjust any item on or omitted from the statement of adjustments as provided for in Section 2.8(d) hereof;
- (g) a mutual indemnity agreement in respect of the Assumed Employees as contemplated by Section 2.16(d) hereof;
- (h) the Approval and Vesting Order and a Receiver's Certificate (as defined in the Approval and Vesting Order);
- (i) an updated Employee List;
- (j) a transfer of the Resident Trust Funds together with related records; and
- (k) such further and other documentation as is referred to in this Agreement or as the Purchaser may reasonably require to give effect to this Agreement.

#### 5.4 Purchaser's Acknowledgement

The Purchaser acknowledges that the Vendor is selling the right, title and interest of the Debtor in and to the Assets pursuant to the Vendor's powers as authorized by the Appointment Order, and the Approval and Vesting Order substantially in the form attached hereto as Exhibit "A". The Purchaser agrees to purchase and accept the right, title and interest of the Debtor in and to the Assets pursuant to and in accordance with the terms of this Agreement and the bill of sale and assignment and other assignment agreements delivered pursuant to the terms of this Agreement.

#### 5.5 Possession of Assets and Resident Trust Funds

The Vendor will remain in possession of the Assets until the Closing Date. On Closing, the Purchaser will take possession of the Assets and the Resident Trust Funds wherever situate as at the Closing Date. The Purchaser acknowledges that the Vendor has no obligation to deliver physical possession of the Assets to the Purchaser. In no event will the Assets be sold, assigned, transferred or set over to the Purchaser until the Purchaser has satisfied all delivery requirements outlined in Section 5.2 hereof.



## 5.6 Access to Assets

- (a) The Purchaser and its duly authorized representatives may have reasonable access to the Assets located at the Debtor's Owned Real Property during normal business hours during the Due Diligence Period for the purpose of enabling the Purchaser to conduct such inspections of the Assets as it deems appropriate, provided the Purchaser gives the Vendor at least forty-eight (48) hours prior notice of the times it intends to conduct such inspections. Such inspection will only be conducted in the presence of a representative of the Vendor if so required at the discretion of the Vendor.
- (b) The Vendor will furnish to the Purchaser and its duly authorized representatives any financial and operating data and other information and documentation with respect to the Business as the Purchaser reasonably requests, including all working papers of Extendicare in any way relating to the Business. The parties expressly agree and understand that there will be some documents not within the actual possession of the Vendor. The Purchaser shall make every reasonable effort to specifically describe any document requested from the Vendor and the Vendor will make reasonable efforts to cause such relevant documents to be disclosed within ten (10) Business Days of any such request.
- (c) The Purchaser agrees to indemnify and save the Vendor harmless from and against all claims, demands, losses, damages, actions and costs incurred or arising from or in any way directly related to the inspection of the Assets or the attendance of the Purchaser, its employees, contractors or agents at the Owned Real Property.

## 5.7 Conduct of Business Before Closing

During the period beginning on the Acceptance Date to and including the Closing Date, the Vendor shall:

- (a) operate the Business in the ordinary course;
- (b) maintain and keep the Assets in their present state of repair, ordinary wear and tear excepted;
- (c) notify the Purchaser of any breach of any representation, warranty or covenant in this Agreement;
- (d) not do any act or omit to do any act that would cause a breach of any representation, warranty, covenant or agreement contained in this Agreement;
- (e) notify the Purchaser of any matter represented in Section 3.2(f) that comes within its knowledge after the Acceptance Date;
- (f) not make any material change in the terms of employment of Employees; and

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- (g) assist the Purchaser so as to effect an orderly transition of the Business to the Purchaser for a period of ninety (90) days following Closing, including, *inter alia*, introducing the Purchaser to the local long term care home market, its Assumed Employees, suppliers, key clients and residents of the Business.

## 5.8 Risk

The Assets will be and remain at the risk of the Debtor and/or the Vendor until Closing and at the risk of the Purchaser from and after Closing. Pending Closing, the Vendor will hold insurance policies covering the Assets and any proceeds derived therefrom for the parties as their respective interest may appear. If, prior to Closing, the Assets are substantially damaged or destroyed by fire or other casualty, then, at its option, the Purchaser may decline to complete the transaction. Such option will be exercised within 15 days after notification to the Purchaser by the Vendor of the occurrence of damage or destruction (or prior to the Closing Date if such occurrence takes place within 15 days of the Closing Date) in which event this Agreement will be terminated automatically and the Purchaser will be entitled only to a return of the Deposits paid under Section 2.7 hereof and the Deposit Interest but without any other compensation. If the Purchaser does not exercise such option, or where any damage or destruction is not substantial, the Purchaser will complete the Transaction and will be entitled to the proceeds of any insurance payable as a result of the occurrence of such loss, damage or destruction. If any dispute arises under this Section as to whether damage or destruction is substantial or with respect to the amount of any abatement, such dispute will be determined in accordance with the arbitration provision referred to in Section 5.9 hereof.

## 5.9 Arbitration

If any dispute arises under Section 5.8 hereof as to whether any damage or destruction is substantial or with respect to the amount of any abatement, such dispute will be determined by an arbitrator mutually acceptable to the parties. If the parties fail to agree on an arbitrator, either may, after such party has notified the other of such failure to agree, give notice to the other party that it wishes to submit the dispute to arbitration by a single arbitrator in accordance with the *Arbitration Act*, 1991 (Ontario). The decision of the arbitrator, which will be final and binding on the parties, will be made as soon as possible following his appointment. The fees and expenses of the arbitration will be borne equally by the parties or as otherwise determined by the arbitrator. If an arbitration proceeding is commenced pursuant to this Section prior to the Closing Date, the Closing Date will be automatically extended to the date, which is four (4) Business Days from the date of the decision of the arbitrator.

## 5.10 Termination

If either the Vendor or the Purchaser validly terminates this Agreement pursuant to the provisions of Sections 4.5 or 5.8 hereof:

- (a) all the obligations of both the Vendor and Purchaser pursuant to this Agreement will be at an end; and

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- (b) neither party will have any right to specific performance or other remedy against, or any right to recover damages or expenses from, the other.

For greater certainty, in the event that the Purchaser terminates this Agreement following the expiration of the Due Diligence Period for any reason other than Non-satisfaction of the Mutual Conditions or the Conditions in favour of the Purchaser set out in Sections 4.1 (c) or (f) to (i) or as a result of the Vendor's default hereunder, the Deposits along with the Deposit Interest shall be released by the Vendor's Solicitors from trust and paid to the Vendor in full satisfaction of all damages, losses, costs and expenses resulting therefrom. In the event that the Purchaser terminates this Agreement prior to the expiration of the Due Diligence Period for any reason whatsoever as the Purchaser may determine in its sole and unfettered discretion, the Vendor shall forthwith return the Deposits and the Deposit Interest to the Purchaser.

### 5.11 Limitation on Indemnity by the Vendor

Any claim by the Purchaser under any indemnity of the Vendor in this Agreement, including those in Section 2.16(d) must be made in writing on or before the end of the sixth month following the Closing Date.

## ARTICLE 6 GENERAL

### 6.1 Electronic Registration

The Purchaser agrees to cause all necessary procedures to be taken, as may be required by the Vendor or the Vendor's Solicitors, to complete the Owned Real Property part of the Transaction using the system for electronic registration operative and mandatory in the applicable land registry office ("Ereg") in accordance with the Law Society of Upper Canada's guidelines. The Purchaser agrees to use a lawyer authorized to use Ereg and who is in good standing with the Law Society of Upper Canada and the Purchaser's Solicitors will enter into the Vendor's Solicitors' standard form of escrow closing agreement or document registration agreement, which will establish the procedures for closing the Transaction provided same are in accordance with Law Society guidelines. If the Purchaser's Solicitors are unwilling or unable to complete this transaction using Ereg, then the Purchaser's Solicitors must attend at the Vendor's Solicitors' office or at another location designated by the Vendor's Solicitors at such time on Closing as directed by the Vendor's Solicitors to complete the transaction using Ereg utilizing the Vendor's Solicitors' computer facilities, in which event, the Purchaser shall pay to the Vendor's Solicitors a reasonable fee therefor.

### 6.2 Paramountcy

In the event of any conflict or inconsistency between the provisions of this Agreement, and any other agreement, document or instrument executed or delivered by the Vendor in connection with this Transaction or this Agreement, the provisions of this Agreement will prevail to the extent of such conflict or inconsistency.

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### 6.3 Vendor's Capacity

The Vendor acts solely in its capacity as court appointed interim receiver and receiver and manager of the Debtor and will have no personal or corporate liability under this Agreement.

### 6.4 Commission

Other than commissions payable by the Vendor to the listing agent, John A. Jensen Realty Inc., in connection with this Transaction, which may include a co-operating broker commission, each party acknowledges that there are no other agent or broker fees or other commissions payable by such party on the Purchase Price or otherwise in connection with the Transaction, and each party agrees to indemnify the other party against any claim for compensation or commission by any third party or agent retained by such party in connection with, or in contemplation of, the Transaction.

### 6.5 Confidentiality

- (a) The Vendor will provide to the Purchaser Confidential Information including information which might reasonably be expected to materially affect: (i) the decision of a prospective purchaser to complete the Transaction; or (ii) the value of the Assets. The Vendor does not represent or warrant the accuracy or completeness of any of the Confidential Information and the Vendor assumes no liability whatsoever to the Purchaser if information, which may be deemed by the Purchaser to have been material to a prospective purchaser to contemplate the Transaction or to the value of the Business, is not provided by the Vendor to the Purchaser.
- (b) All information exchanged between the Vendor and the Purchaser in connection with the Transaction will be considered Confidential Information. Any publicity relating to the Transaction and the manner of releasing any information regarding the Transaction will be mutually agreed upon by the Vendor and the Purchaser, both parties acting reasonably.
- (c) The Vendor will continue to have all right, title and interest in and to the Confidential Information and the Confidential Information will be held in trust by the Purchaser for the benefit of the Vendor. The Purchaser will not, directly or indirectly, use, exploit or disclose the Confidential Information for any reason other than evaluating and assessing the Assets for the purpose of acquiring the Assets. Disclosure or use of the Confidential Information by the Purchaser in breach of this Agreement will be deemed to cause the Vendor irreparable harm for which damages may not be an adequate remedy.
- (d) The Purchaser will disclose the Confidential Information only to those of the Purchaser's employees and professional advisors who will have a need to know the Confidential Information for the purpose of evaluating the Assets and, in each case, only after the relevant professional advisors agree in writing and in favour of the Vendor not to disclose the Confidential Information to any other person. The

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Purchaser will, upon request of the Vendor, deliver copies of such written agreements to the Vendor.

- (e) If the Agreement is terminated for any reason other than the default of the Vendor, the Purchaser will, upon request of the Vendor, immediately return all Confidential Information and copies thereof to the Vendor, or will destroy such Confidential Information and copies thereof, and furnish proof of their destruction to the reasonable satisfaction of the Vendor. If the Agreement is terminated by reason of a default of the Vendor, the Purchaser may delay return of such parts of the Confidential Information as may be reasonably required to deal with any action or claim arising out of such termination until such action or claim has been determined or otherwise resolved.

## 6.6 Costs and Expenses

Except as otherwise specified in this Agreement, all costs and expenses (including the fees and disbursements of accountants, legal counsel and other professional advisers) incurred in connection with this Agreement and the completion of the Transaction are to be paid by the party incurring those costs and expenses. If this Agreement is terminated, the obligation of each party to pay its own costs and expenses is subject to each party's respective rights arising from a breach or termination.

## 6.7 Time of Essence

Time is of the essence in all respects of this Agreement.

## 6.8 Notices

Any Communication must be in writing and either:

- (a) personally delivered;
- (b) sent by prepaid registered mail; or
- (c) sent by facsimile or similar method of recorded communication, charges prepaid.

Any Communication must be sent to the intended recipient at its address as follows:

to the Purchaser at:

201-150 Water Street South  
Cambridge, ON N1R 3E2

Attention: Robert Yoanidis  
Facsimile No. 519.621.8144

with a copy to:

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Miller Thomson, LLP  
Accelerator Building 295 Hagey Blvd., Suite 300,  
Waterloo ON  
N2L 6R5

Attention: Dwayne Kuiper  
Facsimile No.: (519) 743-2540  
E-mail: [dkuiper@millerthomson.com](mailto:dkuiper@millerthomson.com)

to the Vendor at:

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

Attention: Daniel R. Weisz, CA•CIRP  
Hartley Bricks, MBA, CA•CIRP  
Facsimile No.: 416-601-6690  
E-mail: [dweisz@deloitte.ca](mailto:dweisz@deloitte.ca)  
[hbricks@deloitte.ca](mailto:hbricks@deloitte.ca)

with a copy to

Blaney McMurtry LLP  
2 Queen Street East  
Suite 1500  
Toronto, Ontario  
Canada M5C 3G5

Attention: Eric Golden  
Facsimile No.: 416-593-5437  
E-mail: [egolden@blaney.com](mailto:egolden@blaney.com)

or at such other address as any party may from time to time advise the other by Communication given in accordance with this Section 6.8 hereof. Any Communication delivered to the party to whom it is addressed will be deemed to have been given and received on the day it is so delivered at that party's address, provided that if that day is not a Business Day then the Communication will be deemed to have been given and received on the next Business Day. Any Communication transmitted by facsimile or other form of recorded communication will be deemed to have been given and received on the day on which it was transmitted (but if the Communication is transmitted on a day which is not a Business Day or after 3:00 p.m. (local time of the recipient), the Communication will be deemed to have been received on the next Business Day). Any Communication given by registered mail will be deemed to have been received on the 5<sup>th</sup> Business Day after which it is so mailed. If a strike or lockout of postal

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employees is then in effect, or generally known to be impending, every Communication must be effected by personal delivery or by facsimile transmission.

#### **6.9 Further Assurances**

Each party shall, at the requesting party's cost, execute and deliver such further agreements and documents and provide such further assurances as may be reasonably required by the other party to give effect to this Agreement and, without limiting the generality of the foregoing, shall do or cause to be done all acts and things, execute and deliver or cause to be executed and delivered all agreements and documents and provide such assurances, undertakings and information as may be required from time to time by all regulatory or governmental bodies or stock exchanges having jurisdiction over the affairs of a party or as may be required from time to time under applicable securities legislation.

#### **6.10 Amendment and Waiver**


No supplement, modification, amendment, waiver, discharge or termination of this Agreement is binding unless it is executed in writing by the party to be bound. 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 such waiver constitute a continuing waiver unless otherwise expressly provided.

#### **6.11 Submission to Jurisdiction**

Without prejudice to the ability of any party to enforce this Agreement in any other proper jurisdiction, each of the parties 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. To the extent permitted by Applicable Law, each of the parties irrevocably waives any objection (including any claim of inconvenient forum) that it may now or hereafter have to the venue of any legal proceeding arising out of or relating to this Agreement in the courts of the Province of Ontario or that the subject matter of this Agreement may not be enforced in the courts and irrevocably agrees not to seek, and hereby waives any right to, judicial review by any court which may be called upon to enforce the judgment of the courts referred to herein, of the substantive merits of any such suit, action or proceeding. To the extent a party has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property, that party hereby irrevocably waives such immunity in respect of its obligations under this Agreement.

#### **6.12 Assignment and Enurement**

Neither this Agreement nor any right or obligation hereunder may be assigned by either party without the prior consent of the other party. Notwithstanding the foregoing, the Vendor will permit assignment by the Purchaser of this Agreement to a related party. The Purchaser shall not be released in whole or in part of its obligations under the Agreement by such permitted assignment. This Agreement enures to the benefit of and is binding upon the parties and their respective successors and permitted assigns.



**6.13 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 by a court of competent jurisdiction, the illegality, invalidity or unenforceability of that provision will not affect:

- (a) the legality, validity or enforceability of the remaining provisions of this Agreement; or
- (b) the legality, validity or enforceability of that provision in any other jurisdiction.

**6.14 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 and such counterparts will together constitute one and the same instrument.

**6.15 Facsimile Signatures**

Delivery of this Agreement by facsimile or PDF transmission constitutes valid and effective delivery.

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 WEISZ

Title: SENIOR VICE PRESIDENT

**SAC 4 INC.**

Per

Name:

Title:

### 6.13 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 by a court of competent jurisdiction, the illegality, invalidity or unenforceability of that provision will not affect:

- (a) the legality, validity or enforceability of the remaining provisions of this Agreement; or
- (b) the legality, validity or enforceability of that provision in any other jurisdiction.

### 6.14 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 and such counterparts will together constitute one and the same instrument.

### 6.15 Facsimile Signatures


Delivery of this Agreement by facsimile or PDF transmission constitutes valid and effective delivery.

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:

SAC 4 INC.

Per  \_\_\_\_\_  
Name: Robert J. Daniels  
Title: Vice-President



**SCHEDULE 1  
APPOINTMENT ORDER**

**000177**

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.  
JUSTICE C. CAMPBELL

)  
)  
)

TUESDAY, THE 28<sup>th</sup> 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,

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**SERVICE**

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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;

*subject to section 11 of the Nursing Homes Act, R.S.O. 1990, c. X17 (the "NHA")*  
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;

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- subject to section 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;
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- (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.

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- (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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RRC

~~[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 ~~Extendicare~~ 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.. *RRC*

#### 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. *RRC*

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. *(and any party the Receiver retains under paragraph 3(d) of this Order including without limitation Extendicare)*  
*RRC*

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

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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 Extencicare except with the written consent of the Receiver or Extencicare 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 Extencicare (solely in its capacity as agent of the Receiver under the management Agreement)*

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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, <sup>Chce.</sup> ~~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.~~ <sup>Chce.</sup>

#### 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, <sup>for Extensive Chce</sup> 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

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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.

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### **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

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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.

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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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LE / DANS LE REGISTRE NO.:

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  
6<sup>th</sup> 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



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**AND TO: Ministry of Health & Long Term Care**  
Long Term Care Homes Branch  
56 Wellsley Street West  
9<sup>th</sup> 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  
8<sup>th</sup> 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



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**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),

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APPENDIX "C"

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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 28<sup>th</sup> 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.

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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

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**SCHEDULE 2**  
**CONTRACTS [SECTION 1.1]**

**000197**

See attached.

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**SCHEDULE 2  
CONTRACTS**

Vendor Name	Service Provided	Term of Contract	Term	Billing Cycle	Pricing	Number of visits per year
1. Aden Earthworks	Snow removal	2 years	Nov 2010 to Apr 2012	Billed monthly at \$550.00 per month	\$3,300.00	when there is a snow fall
2. ADT/TYCO	Security	on-going	March 2005 to undetermined date	billed quarterly at \$484.88 per month	\$1,939.52	on call, response service
3. Central East Local Health Integration Network	Service Accountability Agreement	2 years, 9 months	July 1, 2010 to March 31, 2013	not applicable	not applicable	not applicable
4. City Water International Inc.	Water filtration system	5 years	Sept 2009 to Sept 2014	Billed quarterly at \$406.12 per quarter	\$1,624.48	lease of equipment
5. Daniela Rusu	Foot Care practitioner	2 years	sept 2009 to sept 2011	not applicable	Residents pay \$25.00 per visit	once a week
6. Futuremed	Incontinence Supplies	3 years	January 2011 to December 2014	expenditures in excess of the monthly funding from the MOH of \$1.20 per resident day is reimbursed 100%.	Varies	not applicable
7. Golden Beautician	Hair services	1 year	Expired June 2010	every week, the amount is dependant on the number of hair styling	75% of all revenues	once a week
8. Golden Care Dental Services	Dental Care	No term length - Either party may terminate with 60 days notice	Aug 2009 to undetermined time.	not applicable	Charged directly to the resident	monthly pickup
9. Organic Resource	collection of waste	On-going	April 9, 2010 to undetermined time	Billed every 12 weeks, \$147.00 every 12 weeks	\$637.00	every 12 weeks
10. Organic Resource	Grease Trap	3 years	July 2010 to July 2013	Not applicable	warranty, no cost	6 number of visits per year

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**SCHEDULE 2  
CONTRACTS**

Vendor Name	Service Provided	Term of Contract	Term	Billing Cycle	Pricing	Number of visits per year
11. Protherm	heating and cooling systems	1 year	May 2010 to May 2011	billed quarterly at \$2,777.00 plus gst	\$12,552.04	quarterly inspection
12. Rona	Purchase of Maintenance supplies	on-going	November 2009 to undetermined date	billed for each time we go in to buy an item, maximum of \$2,000.00	varies	Not applicable
13. Schindler	Elevator maintenance and inspection	on-going	June 2009 to undetermined time	billed monthly at \$1,476.71 per month	\$17,720.52	every 6 months inspection, and on call
14. Service Employees International Union Local 204	Collective Agreement for Full-Time and Part time effective July 26, 2004 and Interest Arbitration dated May 7, 2007	to July 31, 2007 plus a further 3 years as per the Interest Arbitration	to July 31, 2010	not applicable	see agreement	not applicable
15. Sharp Direct	Photocopiers	on-going	as long as we choose to lease the equipment	monthly billing of the number of black and white copies that were done	0.0135 per copy	billed monthly
16. Shaw	Cable	on-going		billed monthly at \$151.08 per month	\$1,812.96	ongoing service
17. Shoppers Home Health	Lifts	1 year	Nov 2010 to Oct 2011	Fee paid annually as per the number of lifts. \$235.00 per lift	\$8,497.60	annual inspection, as service is required
18. Shred-It	Shredding services	3 years	December 2010 to December 2013	billed monthly at \$105.75 per pickup plus the weight amount of the paper shredded	varies	monthly pick up
19. Stericycle	Sharps and waste	5 years	Nov 2009 to Nov 2014	billed monthly at \$314.60 per month	\$3,775.20	monthly pickup
20. STL diagnostic Imaging Inc	x-ray services	2 years	December 2010 to December 2012	not applicable	\$0.00	on-call services

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**SCHEDULE 2  
CONTRACTS**

Vendor Name	Service Provided	Term of Contract	Term	Billing Cycle	Pricing	Number of visits per year on call with referrals
21. The Scarborough Hospital	Nurse Practitioners	indefinite	Aug 2010 to undetermined time	not applicable	\$0.00	
22. Yee Hong	Physiotherapy	indefinite	June 2009 to undetermined time	not applicable	\$0.00	3 times a week

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**SCHEDULE 3  
LICENCES [SECTION 1.1]**

See attached.

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Ministry of Health  
and Long-Term Care  
Ministère de la Santé  
et des Soins de longue durée

**Long-Term Care Home Licence**  
*Long-Term Care Homes Act, 2007*

**Permis autorisant un foyer  
de soins de longue durée**  
*Loi de 2007 sur les foyers de soins de longue durée*

This licence is issued under section 99 of the *Long-Term Care Homes Act, 2007*.  
Le présent permis est délivré aux termes de l'article 99 de la *Loi de 2007 sur les foyers de soins de longue durée*.

**Craiglee Nursing Home Limited**

(Name of Licensee / Nom du titulaire du permis)

Long-Term Care Home:  
Foyer de soins de longue durée :

**Craiglee Nursing Home**

(Name of Home / Nom du foyer)

**102 Craiglee Drive, Scarborough, Ontario**

(Address of Home / Adresse du foyer)

Long-Term Care Home Licence Number:  
Numéro du permis :

**2503-L01**

Effective Date:  
Date d'entrée en vigueur du permis :

**2010-07-01**

Expiry Date:  
Date d'expiration du permis :

**2024-06-21**

The number of beds allowed under this licence is:  
Nombre de lits autorisé en vertu du permis :

**169**

This licence is subject to the condition(s) in Appendix A.  
Le présent permis est assorti des conditions énoncées à l'annexe A.

(Director under the *Long-Term Care Homes Act, 2007* /  
Directeur en vertu de la *Loi de 2007 sur les foyers de soins de longue durée*)

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Ministry of Health  
and Long-Term Care

Ministère de la Santé  
et des Soins de longue durée

**Long-Term Care Home Licence**  
*Long-Term Care Homes Act, 2007*

**Permis autorisant un foyer  
de soins de longue durée**  
*Loi de 2007 sur les foyers de soins de longue durée*

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Appendix A  
Annexe A

Long-Term Care Home Licence Number:

Numéro du permis du foyer de soins de longue durée : 2503-L01

The licence noted above is subject to the following condition(s):

Le permis mentionné ci-dessus est soumis aux conditions suivantes :

1.

**SCHEDULE 4**  
**OWNED REAL PROPERTY [SECTION 1.1]**

**Legal Description**

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

**Permitted Encumbrances**

In respect of those lands and premises municipally known as 94, 96 & 102 Craiglee Drive, Toronto, Ontario and 10 Sharpe Street, 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 (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. C675055 registered October 15, 1990, being a Notice of Lease of Chattels in favour of the Consumers' Gas Company Limited.
  5. Instrument No. E603543 registered September 20, 2002, being an agreement in favour of the City of Toronto (the "City").
  6. Instrument No. AT118898 registered March 11, 2003, being an Application to Consolidate Parcels.
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7. Instrument No. AT118899 registered March 11, 2003, being an Application to Consolidate Parcels.
8. 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.

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**SCHEDULE 5**  
**LEASES RENT ROLL [SECTION 1.1]**

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**SCHEDULE 5**  
**LEASES RENT ROLL - FEBRUARY 2011**

Room Number	Bed Number	Accommodation Type	Rate	Notes
108	1	Basic		Not Occupied
108	2	Basic	\$ 1,619.08	
108	3	Basic	\$ 916.00	ODSP
109	1	Basic	\$ 1,619.08	
109	2	Basic	\$ 1,619.08	
109	3	Basic	\$ 1,122.33	
109	4	Basic	\$ 1,314.50	
112	1	Private	\$ 1,453.83	Due to the resident's behaviour he was placed in a private room at a basic rate
113	1	Semi-Private		Not Occupied
113	2	Semi-Private		Not Occupied
116	1	Basic	\$ 1,122.42	
116	2	Basic	\$ 1,386.00	
116	3	Basic	\$ 1,053.33	
116	4	Basic	\$ 1,619.08	
117	1	Basic	\$ 1,053.33	
117	2	Basic	\$ 1,314.75	
117	3	Basic	\$ 1,249.50	
117	4	Basic	\$ 1,218.42	
118	1	Basic	\$ 1,619.08	
118	2	Basic	\$ 1,053.33	
118	3	Basic	\$ 1,619.08	
118	4	Basic	\$ 1,382.50	
126	1	Semi-Private	\$ 1,862.41	
126	2	Semi-Private		Not Occupied
127	1	Basic	\$ 1,122.33	
127	2	Basic	\$ 1,122.33	
127	3	Basic		Not Occupied
127	4	Basic	\$ 1,198.25	
131	1	Semi-Private	\$ 1,452.00	Due to our lack of basic beds, this semi-private room has been temporarily turned into a basic room
131	2	Semi-Private	\$ 1,619.08	Due to our lack of basic beds, this semi-private room has been temporarily turned into a basic room
132	1	Private	\$ 2,166.58	
133	1	Basic	\$ 1,053.33	
133	2	Basic	\$ 1,053.33	

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**SCHEDULE 5**  
**LEASES RENT ROLL - FEBRUARY 2011**

Room Number	Bed Number	Accommodation Type	Rate	Notes
133	3	Basic	\$ 916.00	ODSP
133	4	Basic	\$ 1,053.33	
141	1	Semi-Private		Not Occupied
141	2	Semi-Private	\$ 1,296.00	
142	1	Semi-Private		Not Occupied
142	2	Semi-Private	\$ 1,619.08	Due to our lack of basic beds, this semi-private room has been temporarily turned into a basic room
143	1	Semi-Private	\$ 1,322.03	Due to our lack of basic beds, this semi-private room has been temporarily turned into a basic room
143	2	Semi-Private	\$ 1,053.33	Due to our lack of basic beds, this semi-private room has been temporarily turned into a basic room
144	1	Basic	\$ 1,461.42	
144	2	Basic	\$ 1,232.58	
145	1	Basic	\$ 1,619.08	
145	2	Basic	\$ 1,255.08	
146	1	Basic	\$ 1,053.33	
146	2	Basic	\$ 1,619.08	
147	1	Basic	\$ 916.00	ODSP
147	2	Basic	\$ 916.00	ODSP
148	1	Basic	\$ 1,270.33	
148	2	Basic	\$ 1,053.33	
149	1	Basic	\$ 1,053.33	
149	2	Basic	\$ 1,619.08	
150	1	Basic	\$ 1,619.08	
150	2	Basic	\$ 1,122.33	
151	1	Basic	\$ 1,619.08	
151	2	Basic	\$ 1,122.42	
152	1	Basic	\$ 916.00	ODSP
152	2	Basic	\$ 1,237.17	
153	1	Basic	\$ 1,619.08	
153	2	Basic	\$ 1,619.08	
154	1	Basic	\$ 1,122.33	
154	2	Basic	\$ 1,286.08	
155	1	Basic	\$ 1,291.78	
155	2	Basic	\$ 1,619.08	

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**SCHEDULE 5**  
**LEASES RENT ROLL - FEBRUARY 2011**

Room Number	Bed Number	Accommodation Type	Rate	Notes
156	1	Basic	\$ 1,122.42	
156	2	Basic	\$ 1,619.08	
208	1	Semi-Private	\$ 916.00	
208	2	Semi-Private	\$ 1,619.08	
209	1	Semi-Private	\$ 1,529.42	
209	2	Semi-Private		Not Occupied
210	1	Private	\$ 2,166.58	
211	1	Semi-Private	\$ 1,619.08	
211	2	Semi-Private		Not Occupied
214	1	Private		Not Occupied
215	1	Semi-Private		Not Occupied
215	2	Semi-Private	\$ 1,862.41	
220	1	Basic	\$ 1,619.08	
220	2	Basic	\$ 1,619.08	
220	3	Basic	\$ 1,619.08	
220	4	Basic	\$ 1,619.08	
221	1	Basic	\$ 1,619.08	
221	2	Basic	\$ 1,619.08	
221	3	Basic	\$ 1,053.33	
221	4	Basic	\$ 1,437.25	
222	1	Basic	\$ 1,619.08	
222	2	Basic	\$ 1,059.60	
222	3	Basic	\$ 1,122.42	
222	4	Basic	\$ 1,619.08	
232	1	Semi-Private	\$ 1,159.08	
232	2	Semi-Private	\$ 1,862.41	
233	1	Private	\$ 2,166.58	
234	1	Basic	\$ 1,619.08	
234	2	Basic	\$ 1,619.08	
234	3	Basic	\$ 916.00	ODSP
234	4	Basic	\$ 1,619.08	
242	1	Semi-Private	\$ 1,122.33	
242	2	Semi-Private	\$ 1,099.33	
243	1	Semi-Private		Not Occupied
243	2	Semi-Private	\$ 1,862.41	
244	1	Basic	\$ 1,619.08	
244	2	Basic	\$ 1,619.08	
245	1	Basic	\$ 1,536.95	
245	2	Basic	\$ 1,444.75	
246	1	Basic	\$ 1,435.92	
246	2	Basic	\$ 1,619.08	

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**SCHEDULE 5  
LEASES RENT ROLL - FEBRUARY 2011**

Room Number	Bed Number	Accommodation Type	Rate	Notes
247	1	Basic	\$ 916.00	ODSP
247	2	Basic	\$ 1,053.33	
248	1	Basic	\$ 1,619.08	
248	2	Basic	\$ 1,122.42	
249	1	Basic	\$ 1,619.08	
249	2	Basic	\$ 1,194.42	
250	1	Basic	\$ 1,619.08	
250	2	Basic	\$ 1,388.08	
251	1	Basic	\$ 1,274.33	
251	2	Basic	\$ 1,053.33	
252	1	Basic	\$ 1,053.33	
252	2	Basic	\$ 1,173.42	
253	1	Basic	\$ 1,602.42	
253	2	Basic	\$ 1,460.25	
254	1	Basic	\$ 1,122.42	
254	2	Basic	\$ 1,619.08	
255	1	Basic	\$ 1,350.42	
255	2	Basic	\$ 1,259.92	
256	1	Basic	\$ 1,619.08	
256	2	Basic	\$ 1,119.67	
257	1	Private		Not Occupied
258	1	Private	\$ 1,053.33	Due to resident's condition, he requires a private room, but he is paying the basic rate
259	1	Private	\$ 2,166.58	
308	1	Private	\$ 2,166.58	
309	1	Private	\$ 2,166.58	
310	1	Basic	\$ 1,619.08	
310	2	Basic	\$ 1,619.08	
314	1	Basic	\$ 1,099.58	
314	2	Basic	\$ 1,199.92	
315	1	Private	\$ 2,166.58	
320	1	Private	\$ 2,166.58	
321	1	Basic	\$ 1,455.00	
321	2	Basic	\$ 1,322.75	
322	1	Basic	\$ 1,257.17	
322	2	Basic	\$ 1,053.33	
326	1	Basic	\$ 916.00	ODSP
326	2	Basic	\$ 1,619.08	
332	1	Semi-Private	\$ 1,308.50	
332	2	Semi-Private	\$ 1,862.41	

000211

**SCHEDULE 5**  
**LEASES RENT ROLL - FEBRUARY 2011**

Room Number	Bed Number	Accommodation Type	Rate	Notes
334	1	Private		Not Occupied
342	1	Private	\$ 2,166.58	
343	1	Private	\$ 2,166.58	
344	1	Private		Not Occupied
345	1	Private	\$ 2,166.58	
346	1	Private	\$ 2,166.58	
347	1	Private		Not Occupied
348	1	Private	\$ 2,166.58	
349	1	Basic	\$ 1,126.33	
349	2	Basic	\$ 1,298.00	
350	1	Basic	\$ 1,122.42	
350	2	Basic	\$ 1,450.33	
351	1	Basic	\$ 916.00	ODSP
351	2	Basic	\$ 1,398.67	
352	1	Basic	\$ 1,492.14	
352	2	Basic	\$ 1,619.08	
353	1	Private	\$ 2,166.58	
354	1	Private		Not Occupied
355	1	Basic	\$ 1,538.69	Due to the resident's behaviour, she was placed in a private room at a basic rate
356	1	Private		Not Occupied
357	1	Private		Not Occupied
358	1	Private	\$ 2,166.58	
359	1	Private	\$ 2,166.58	
360	1	Private	\$ 2,166.58	



000212

**EXHIBIT A**

**FORM OF APPROVAL AND VESTING ORDER  
[SECTION 4.3]**

**Approval and Vesting Order on Standard Terms**

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**THE HONOURABLE ●**

**JUSTICE ●**

} ●, THE ● DAY  
OF ●, 20 ●

**BETWEEN:**

**DESJARDINS FINANCIAL SECURITY LIFE  
ASSURANCE COMPANY**

Applicant

– and –

**CRAIGLEE NURSING HOME LIMITED**

Respondents

**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 (the “Sale Agreement”) between the Receiver and SAC 4 Inc. (the “Purchaser”) made

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as of ●, 20● and appended to the Report of the Receiver dated ●, 20● (the "Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, ● <Insert names of other parties appearing.> , no one appearing for any other person on the service list, although properly served as appears from the affidavit of ● <Insert name.> sworn ●, 20● filed:

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and that the Sale Agreement is commercially reasonable and in the best interests of the Debtor and its stakeholders. The execution of the Sale Agreement 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.
2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice 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**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of

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

3. THIS COURT ORDERS that upon the registration in the Land Registry Office for the 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.

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

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

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

7. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;

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(b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of the Debtor;

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

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

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

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SCHEDULE A

000216

FORM OF RECEIVER'S CERTIFICATE

Court File No. ●

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

BETWEEN:

●

Plaintiff

●

Defendant

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Campbell of the Ontario Superior Court of Justice (the "Court") dated April 28, 2009, Deloitte & Touche Inc. was appointed as the interim receiver and receiver and manager (the "Receiver") of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited (the "Debtor").

B. Pursuant to an Order of the Court dated ●, the Court approved the agreement of purchase and sale made as of ● <Insert date of Agreement.> (the "Sale Agreement") between the Receiver and SAC 4 Inc. (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section 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.

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

THE RECEIVER CERTIFIES the following:

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

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: \_\_\_\_\_

2

000218

**SCHEDULE B**

**SUBJECT REAL PROPERTY**

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

Q


## SCHEDULE C

000219

### CLAIMS TO BE DELETED AND EXPUNGED FROM TITLE TO REAL PROPERTY

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

(as of February 24, 2011)

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.
- 

000220

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

(as of February 24, 2011)

1. 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.
2. Instrument No. AT2015651 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**").
3. Instrument No. AT2015652 registered February 20, 2009, being a Notice of Assignment of Rents - General relating to the Desjardins Charge.
4. 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.



## 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 (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 (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. C675055 registered October 15, 1990, being a Notice of Lease of Chattels in favour of the Consumers' Gas Company Limited.
5. Instrument No. E603543 registered September 20, 2002, being an agreement in favour of the City of Toronto (the "**City**").
6. Instrument No. AT118898 registered March 11, 2003, being an Application to Consolidate Parcels.
7. Instrument No. AT118899 registered March 11, 2003, being an Application to Consolidate Parcels.
8. 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.
- 

## EXHIBIT C

FORM OF BILL OF SALE AND ASSIGNMENT  
[SECTION 5.2]

## BILL OF SALE AND ASSIGNMENT

THIS AGREEMENT dated as of ●, 2011

## 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 "Receiver")

- and -

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

(the "Purchaser")

## CONTEXT:

A. By an order of the Honourable Justice Campbell of the Ontario Superior Court of Justice (Commercial List) dated April 28, 2009 (the "Appointment Order"), Deloitte & Touche Inc. was appointed interim receiver and receiver and manager of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited pursuant to Section 47 of the *Bankruptcy and Insolvency Act* (Canada) and Section 101 of the *Courts of Justice Act* (Ontario).

B. The Purchaser and the Receiver have entered into an Agreement of Purchase and Sale made as of ●, 2011 (the "Agreement"), pursuant to which the Receiver has agreed to sell the Assets and assign the Assumed Contracts to the Purchaser and the Purchaser has agreed to purchase the rights, benefits and interests of the Debtor, if any, in and to the Assets and the Assumed Contracts and to assume the Assumed Obligations.

C. Capitalized terms used herein not otherwise defined herein will have the meanings set out in the Agreement.

Q

**FOR VALUE RECEIVED**, the parties agree as follows:

**1. WARRANTY**

**(a) Warranty**

The Purchaser and the Receiver warrant each to the other that recital B of this Indenture is true in substance and in fact.

**2. SALE OF ASSETS**

**(a) Sale of Assets**

The Receiver, exercising the powers granted pursuant to the Appointment Order and the Approval and Vesting Order, hereby sells, transfers, conveys, assigns and sets over to the Purchaser, pursuant to the terms of the Agreement, all of the rights, benefits and interests of the Debtor, if any, in and to the Assets as described in the Agreement.

**(b) Release**

The Receiver hereby remises, releases and forever discharges to the Purchaser all of its interests, claims and demands whatsoever to and under the Assets.

**3. MISCELLANEOUS**

**(a) Benefit of Agreement**

This Indenture and all of its provisions will enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

**(b) Governing Law**

This Indenture will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

**(c) Counterparts**

This Indenture may be executed in any number of counterparts, each of which will be deemed to be an original and all of which will constitute one and the same agreement. Transmission by facsimile of an executed counterpart of this Agreement will be deemed to constitute due and sufficient delivery of such counterpart.

d

000224

The parties have executed this Indenture.

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:

SAC 4 INC.

Per \_\_\_\_\_  
Name:  
Title:

2



**AMENDING AGREEMENT NO. 1**

000225

**THIS AMENDING AGREEMENT** is dated as of June 8, 2011

**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 -

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

(the "Purchaser")

**CONTEXT:**

A. The parties have made an Agreement of Purchase and Sale of the Assets dated April 1, 2011 ("Purchase Agreement").

B. The parties wish to amend the term of the Purchase Agreement which is referred to below.

C. 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 1.1 Definitions** is amended by deleting

"**Due Diligence Period**" means the period commencing on the Acceptance Date to and including the date which is seventy five (75) days immediately thereafter."

and substituting therefor

"**Due Diligence Period**" means the period commencing on the Acceptance Date to and including July 15, 2011."

2. **Section 4.3 Mutual Conditions** is amended by deleting in subsection (a) "30 days" and substituting therefor "45 days" and,
3. **Section 4.4 Transfer of Licenses** is amended by deleting "45 days" in the second paragraph and substituting therefore "60 days".
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 counterpart delivered by each party together constituting this Amending Agreement.

000226


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:

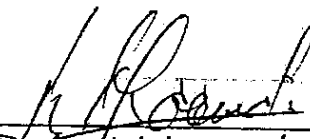
  
DANICE WEISS  
SENIOR VICE PRESIDENT

**SAC 4 INC.**

Per

Name:

Title:

  
Robert Moanidis  
Vice-President

AMENDING AGREEMENT NO. 2

THIS AMENDING AGREEMENT is dated as of July 15, 2011

000227

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 -

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

(the "Purchaser")

CONTEXT:

- A. The parties have made an Agreement of Purchase and Sale of the Assets dated April 1, 2011 as amended by an agreement dated June 8, 2011 ("Purchase Agreement").
- B. The parties wish to further amend the Purchase Agreement as set out below.
- C. 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 1.1 Definitions is amended by deleting

"Due Diligence Period" means the period commencing on the Acceptance Date to and including July 15, 2011."

and substituting therefor


"Due Diligence Period" means the period commencing on the Acceptance Date to and including August 12, 2011."

- 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.

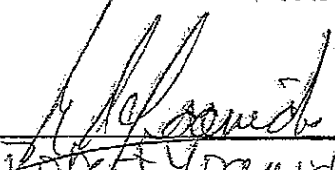
DELOITTE & TOUCHE INC., solely in its capacity as court-appointed interim receiver and receiver and manager of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited and not in its personal capacity

Per

  
Name: DANIEL WEISS  
Title: SENIOR VICE PRESIDENT

SAC 4 INC.

Per

  
Name: ROBERT Y. VASSILOPOULOS  
Title: VICE PRESIDENT

AMENDING AGREEMENT NO. 3

000229

THIS AMENDING AGREEMENT is dated as of August 12, 2011

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 -

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

(the "Purchaser")

CONTEXT:

A. The parties have made an Agreement of Purchase and Sale of the Assets dated April 1, 2011 as amended by an agreement dated June 8, 2011 and by agreement dated July 15, 2011 ("Purchase Agreement").

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

C. 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 1.1 Definitions is amended by deleting

"Due Diligence Period" means the period commencing on the Acceptance Date to and including August 12, 2011."


and substituting therefor

"Due Diligence Period" means the period commencing on the Acceptance Date to and including August 19, 2011."

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.

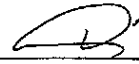
Each of the parties has executed and delivered this Agreement, as of the date noted at the beginning of the Agreement.



000230

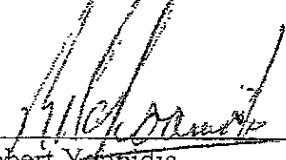
DELOITTE & TOUCHE INC., solely in its capacity as court-appointed interim receiver and receiver and manager of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited and not in its personal capacity

Per

  
Name: DANIEL WEITZ  
Title: SENIOR VICE PRESIDENT

SAC 4 INC.

Per

  
Name: Robert Yeandis  
Title: Vice-President

**AMENDING AGREEMENT NO. 4**

**THIS AMENDING AGREEMENT** is dated as of August 19, 2011

**000231**

**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 -

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

(the "Purchaser")

**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 and August 12, 2011 ("**Purchase Agreement**").

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

C. 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 1.1 Definitions is amended by deleting

"**Due Diligence Period**" means the period commencing on the Acceptance Date to and including August 19, 2011."

and substituting therefor

"**Due Diligence Period**" means the period commencing on the Acceptance Date to and including August 31, 2011."

2. Except as specifically amended herein, the Purchase Agreement continues in full force and effect.

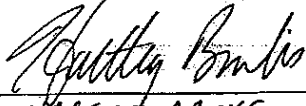
3. This Agreement may be executed by the parties in counterparts and delivered by way of pdf email transmission or facsimile, with such counterparts together and such delivery being deemed originals.

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

000232

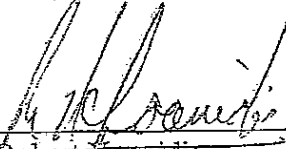
DELOITTE & TOUCHE INC., solely in its capacity as court-appointed interim receiver and receiver and manager of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited and not in its personal capacity

Per

  
Name: HARTER BRICKS  
Title: VICE-PRESIDENT

SAC 4 INC.

Per

  
Name: Robert Ioanidis  
Title: Vice-President



AMENDING AGREEMENT NO. 5

000233

THIS AMENDING AGREEMENT is dated as of August 31, 2011

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 -

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

(the "Purchaser")

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 and August 19, 2011 ("Purchase Agreement").

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

C. 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 1.1 Definitions is amended by deleting

"Due Diligence Period" means the period commencing on the Acceptance Date to and including August 31, 2011."

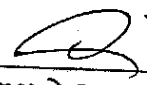
and substituting therefor

"Due Diligence Period" means the period commencing on the Acceptance Date to and including September 8, 2011."

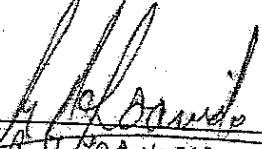
2. Except as specifically amended herein, the Purchase Agreement continues in full force and effect.
3. This Agreement may be executed by the parties in counterparts and delivered by way of pdf email transmission or facsimile, with such counterparts together and such delivery being deemed originals..

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: DANICA WEISS  
Title: SENIOR VICE PRESIDENT

SAC 4 INC.

Per   
Name: A. H. PARNIS  
Title: V.P.

000235

AMENDING AGREEMENT NO. 6

THIS AMENDING AGREEMENT is dated as of September 2, 2011

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 -

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

(the "Purchaser")

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 and August 31, 2011 ("Purchase Agreement").

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

C. 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 1.1 Definitions is amended by deleting:

~~"Purchase Price" means the sum of [REDACTED]  
[REDACTED] in lawful money of Canada.~~

and substituting therefore:

"Purchase Price" means the sum of [REDACTED]  
[REDACTED] in lawful money of Canada."

2. Section 1.1 Definitions is amended by deleting paragraph (b) of the definition of "Books and Records" as set out below:

"(b) all personnel records, inspection records and other records, books and accounting records, documents and databases relating to the operation of the Business as are in the possession or under the control of the Vendor."

and substituting therefore as paragraph (b) of the definition of "Books and Records":

d X

"(b) all personnel records, inspection records and other records, books and accounting records, documents and databases relating to the operation of the Business as are in the possession or under the control of the Vendor and Extendicare, excluding any documents that are proprietary to Extendicare."

3. Section 1.1 Definitions is amended by deleting:

"Closing Date" means the date which is thirty (30) days immediately following the later of written confirmation from the Vendor to the Purchaser that: (a) the Approval and Vesting Order has been granted, and (b) the MOH has approved the purchase by the Purchaser contemplated under this Agreement and the MOH has issued or approved the Purchaser for transfer of the Licence(s) or for issue of licences similar to the Licence(s) to the Purchaser; or such earlier date as agreed by the parties, but in no event will the Closing Date be later than March 15, 2012."

and substituting therefore:

"Closing Date" means the date which is thirty (30) days immediately following the later of written confirmation from the Vendor to the Purchaser that: (a) the Approval and Vesting Order has been granted, and (b) the MOH has approved the purchase by the Purchaser contemplated under this Agreement and the MOH has issued or approved the Purchaser for transfer of the Licence(s) or for issue of licences similar to the Licence(s) to the Purchaser; or such earlier date as agreed by the parties, but in no event will the Closing Date be later than ~~April~~ <sup>May</sup> 15, 2012.

4. Section 1.1 Definitions is amended to include the following definitions:

"Assumed Current Contracts" is defined in Section 2.2 hereof.

"Assumed Future Contracts" is defined in Section 2.2 hereof.

"Current Contracts" means those Contracts entered into by the Debtor and/or the Vendor up to the date of expiration of the Financing Condition Period.

"Financing Condition Period" means September 30, 2011.

"Future Contracts" means those Contracts entered into by the Vendor between the date that is the day after the date of expiration of the Financing Condition Period and the date on which MOH approval to the License transfer is received.

5. Section 1.1 Definitions is amended by deleting:

"Assumed Contracts" is defined in Section 2.2 hereof."

and substituting therefore:

"Assumed Contracts" means the Assumed Current Contracts and the Assumed Future Contracts.

6. Section 2.2 Assignment and Assumption of Contracts is amended by deleting the following sentence:

"The Purchaser shall have until expiration of the Due Diligence Period to advise the Vendor in writing of those Contracts it wishes to assume on Closing (the "Assumed Contracts"), failing which, the Purchaser shall be deemed to have agreed to assume all Contracts on Closing."

And substituting therefore:

"The Purchaser shall have until expiration of the Financing Condition Period to advise the Vendor in writing of those Current Contracts it wishes to assume on Closing (the "Assumed Current Contracts"), failing which, the Purchaser shall be deemed to have agreed to assume all Current Contracts on Closing. With respect to Future Contracts, within 5 days of receipt of approval from the MOH to the Licence transfer, the Vendor shall provide the Purchaser with a list of all Future Contracts. Within 10 days of receipt of the list of the Future Contracts, the Purchaser shall provide the Vendor with a list of all Future Contracts it wishes to assume on Closing (the "Assumed Future Contracts"), failing which, the Purchaser shall be deemed to have agreed to assume all Future Contracts on Closing."

7. Section 2.9 Annual Account Reconciliation is added as follows:

"Vendor shall be responsible for preparing and filing the 2011 annual account reconciliation with the MOH."

8. Section 2.15 Employee List is amended by deleting the sentence:

"At least ten (10) Business Days before the Closing Date, the Vendor shall deliver to the Purchaser an up-to-date Employee List of all Employees as at such date certified by an officer of the Vendor verifying to the extent of its knowledge the accuracy of the contents thereof."

And substituting therefore:

"Within 5 days of receipt of approval from MOH to the License transfer, the Vendor shall deliver to the Purchaser an up-to-date Employee List of all Employees as well as a current list of the status of non-active Employees and the status of all waiver of premium filings as at that date certified by an officer of the Vendor verifying to the extent of its knowledge the accuracy of the contents thereof."

9. Section 2.11 (c) Revised List is added to Section 2.11 as follows:

"(c) Within 10 days of receipt of the revised Employee List to be provided following MOH approval, the Purchaser shall advise the Vendor

af

of any changes to the Transferred Employees arising as a result of changes to the Employee List."

10. Section 2.17 Rollover Agreement is added as follows:

"Vendor shall use its best efforts to facilitate an agreement between the Purchaser and Service Employees International Union Local 204 (the "Union") conditional upon Closing for a roll over collective agreement to be entered into between the Purchaser and the Union (with an expiry date one year after the Closing Date), the terms of which will be:

- Except for wage rates and the expiry date of the collective agreement (the expiry date amended to reflect a term as set out above) the current terms of the expired Collective Agreement remain in place;
- the wage rates will be the rates in effect as at June 30, 2011 plus any proportional wage rate increase, by job classification, contained in any Memorandum of Settlement on the closest pay date on or after the dates provided in the Memorandum of Settlement but in no event prior to June 30, 2012 and annually thereafter.

"Memorandum of Settlement" means any current memorandum of settlement concerning the wages or other terms and conditions of employment between the Service Employees International Union (the "SEIU") and the Participating Nursing Homes (defined as approximately 89 nursing homes engaged in central bargaining with SEIU) and any successor memorandums of settlement between SEIU and the Participating Nursing Homes."

11. Section 2.18 Benefit Plans is added as follows:

"Vendor shall direct Extendicare to file all Waiver of Premium forms (re Life Insurance) for Employees who have met the required Elimination Period as set out in the Benefit Plan and to use their best efforts to obtain acceptance of such ~~waivers from the insurance provider.~~"

12. Section 4.1(b) is amended to read as follows:

~~"(b) the Purchaser shall have finalized financing terms to facilitate the completion of the Transaction prior to the Financing Condition Period (the "Financing Condition");"~~

13. Section 4.3 (c) is amended to read as follows:

"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)."

14. Section 5.12 is added as follows:

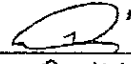
"For the period beginning three months following filing of the application for MOH approval to the transfer of the Licenses through to the Closing Date the

Purchaser shall be permitted access to the Assets and Owned Real Property in accordance with the provisions of Section 5.6(a)."


15. Exhibit A – Form of Approval and Vesting Order is deleted and replaced with the attached Schedule B.
16. Purchaser hereby waives the Due Diligence Condition and the conditions contained in sections 4.1(d) and 4.1(e).
17. Except as specifically amended herein, the Purchase Agreement continues in full force and effect.
18. 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

SAC 4 INC.

Per   
Name: Robert Yeanidis  
Title: Vice-President

- 8 -

SCHEDULE B TO AMENDING AGREEMENT NO. 26 07

EXHIBIT A

FORM OF APPROVAL AND VESTING ORDER  
(SECTION 4.3)

APPROVAL AND VESTING ORDER ON STANDARD TERMS

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

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE

JUSTICE •

BETWEEN:

DAY, THE 25TH

DAY OF AUGUST, 2011

DESJARDINS FINANCIAL SECURITY LIFE  
ASSURANCE COMPANY

Applicant

- and -

CRAIGLEE NURSING HOME LIMITED

Respondents

APPROVAL AND VESTING ORDER

~~THIS MOTION, made by Deleitte & 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 "Sale Agreement") between the Receiver and  
SAC-4 Inc. (the "Purchaser") made as of April 1, 2011 and appended to the Report of the  
Receiver dated •, 20• (the "Third Report"), and vesting in the Purchaser the Debtor's right,  
title and interest in and to the assets described in the Sale Agreement (the "Purchased  
Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, •  
<Insert names of other parties appearing.>, no one appearing for any other person on the  
service list, although properly served as appears from the affidavit of •<Insert name> sworn •,  
20• filed:



- 9 -

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and that the Sale Agreement is commercially reasonable and in the best interests of the Debtor and its stakeholders. The execution of the Sale Agreement 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.

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

3. THIS COURT ORDERS that upon the registration in the Land Registry Office for the 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.

4. THIS COURT ORDERS that the City of Toronto 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 or other charges relating to the Real Property, including penalties and interest, which accrued prior to Closing (the "City Claims").

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- 10 -

Notwithstanding the foregoing, the City of Toronto is permitted to advance a Claim in respect of the City Claims against the Net Proceeds with respect to any such charges.

5. THIS COURT ORDERS AND DECLARES that, following the vesting of the Purchased Assets in the Purchaser, the Ontario Ministry of Health and Long-Term Care (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 Sale Agreement which comprises a portion of the Purchased Assets) or pursuant to statute, with respect to any overpayments made by the MOH to the Debtor, or made to the Receiver with respect to the Craiglee Nursing Home (the "MOH Claims"). Notwithstanding the foregoing, the MOH is permitted to advance a Claim in respect of the MOH Claims against the Net Proceeds with respect to any such overpayments made to the Debtor.

6. THIS COURT ORDERS that the Receiver hold in trust from the Net Proceeds an amount sufficient to satisfy the City Claims and the MOH Claims made 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.

7. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets (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 from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, ~~as if the Purchased Assets had not been sold and~~ remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

9. 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 Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal

- 11 -

information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

10. THIS COURT ORDERS that, notwithstanding:

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

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

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

12. ~~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.

## SCHEDULE A

## FORM OF RECEIVER'S CERTIFICATE

Court File No. \*

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

BETWEEN:

Plaintiff

Defendant

## RECEIVER'S CERTIFICATE

## RECITALS

- A. Pursuant to an Order of the Honourable Justice Campbell of the Ontario Superior Court of Justice (the "Court") dated April 28, 2009, Deloitte & Touche Inc. was appointed as the interim receiver and receiver and manager (the "Receiver") of the current and future assets, undertakings and properties of Craiglee Nursing Home Limited (the "Debtor").
- B. Pursuant to an Order of the Court dated \*, the Court approved the agreement of purchase and sale made as of April 1, 2011, as amended from time to time (the "Sale Agreement") between the Receiver and SAC 4 Inc. (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section 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.
- C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

## THE RECEIVER CERTIFIES the following:

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

000245

- 2 -

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

## SUBJECT REAL PROPERTY

Sharpe

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

## 1. CLAIMS TO BE DELETED AND EXPUNGED FROM TITLE TO REAL PROPERTY

A. In respect of those lands and premises municipally known as 94, 96 & 102 Craiglee Drive, Toronto, Ontario and 10 Sharpe Street, Toronto, Ontario:  
(as of February 24, 2011)

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:

(as of February 24, 2011)

1. 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.

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AT2015651

2. Instrument No. AT2015651 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").
3. Instrument No. AT2015652 registered February 20, 2009, being a Notice of Assignment of Rents - General relating to the Desjardins Charge.
4. 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 April 13, 2011)

File #	Creation Date	Expiry Date	Period	Reg Type	Secured Party(ies)	Debtor(s)	Registration#	Coll Classif
07224036	20 Oct 1995	20 Oct 2028	33 years	PPSA	THE EQUITABLE TRUST COMPANY	CRAIGLEE NURSING HOME LIMITED	19951006 1449 0043 6475	I E A O
				Partial Assignment	DESJARDINS FINANCIAL SECURITY LIFE ASSURANCE COMPANY (Assignee)		20051223 1129 1862 2606	
013074306	28 Feb 2005	28 Feb 2015	10 years	PPSA	HER MAJESTY THE QUEEN AS REPRESENTED BY MOF (RST/ EHT/ CT)	CRAIGLEE NURSING HOME LIMITED	20050228 1039 1031 9160	I E A O
036931299	12 Jun 2008	12 Jun 2018	10 years	PPSA	THE CONSUMERS' WATERHEATER INCOME FUND	CRAIGLEE NURSING HOMES	20080612 1403 1462 9218	E
				General	HVAC EQUIPMENT LOCATED AT 102 CRAIGLEE DR. TORONTO, ONTARIO, MIN2M7			
				Collateral				
652903866	22 Apr 2009	22 Apr 2019	10 years	PPSA	DESJARDINS FINANCIAL SECURITY LIFE ASSURANCE COMPANY	CRAIGLEE NURSING HOME LIMITED	20090422 1526 1862 5473	E A O
					DESJARDINS FINANCIAL SECURITY LIFE ASSURANCE COMPANY			
668952186	8 Apr 2011	8 Apr 2016	5 years	PPSA	ENERCARE SOLUTIONS LIMITED PARTNERSHIP	CRAIGLEE NURSING HOME LTD	20110408 1403 1462 4404	E O
				General	DOMESTIC BOILER AND 2 STORAGE TANKS LOCATED AT 102 CRAIGLEE DR.			
				Collateral	TORONTO ON MIN2M7			
668952032	8 Apr 2011	8 Apr 2016	5 years	Reg Type	Secured Party(ies)	Debtor(s)	Registration#	Coll Classif



000249

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PPSA	ENERCARE SOLUTIONS LIMITED PARTNERSHIP	CRAIGLEE NURSING HOME LTD.	20110408 1403 1462 4417						E	O
	General HEATING BOILER LOCATED AT 102 CRAIGLEE DR. TORONTO MIN2M7									
	CoNatural									



## 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 (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 (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. C675055 registered October 15, 1990, being a Notice of Lease of Chattels in favour of the Consumers' Gas Company Limited.
5. Instrument No. E603 543 registered September 20, 2002, being an agreement in favour of the City of Toronto (the "City")
6. Instrument No. AT118898 registered ~~March~~ <sup>March</sup> 11, 2003, being an Application to Consolidate Parcels.
7. Instrument No. AT118899 registered March 11, 2003, being an Application to Consolidate Parcels.
8. 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~~ <sup>AT118899</sup> registered March 11, 2003, being an Application to Consolidate Parcels.

of

WAIVER

000251

TO: **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")

RE: Agreement of Purchase and Sale between the Vendor and SAC 4 Inc. dated April 1, 2011 as amended by agreements dated June 8, 2011, July 15, 2011, August 12, 2011, August 19, 2011, August 31, 2011 and September 2, 2011 (the "APS")

---

The undersigned hereby waives the Financing Condition contained at Section 4.1(b) of the APS.

Dated this 30<sup>th</sup> day of September, 2011

SAC 4 INC.

Per: 

Robert Yonaidis - Vice President

I have authority to bind the corporation

**SAC 4 Inc.**

**000252**

201 - 150 Water Street South, Cambridge, Ontario N1R 3E2  
Telephone: 519.621.8886  
Fax: 519.621.8144

September 30, 2011

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

Attention: Hartley Bricks

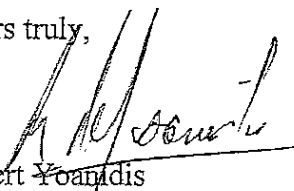
RE: Agreement of Purchase and Sale between SAC 4 Inc. and Deloitte & Touche Inc.  
for the purchase / sale of assets of Craiglee Nursing Home (the "APS")

In accordance with Section 2.2 of the APS, as amended, the Purchaser agrees to assume the Current Contracts (as defined in Section 2.2 of the APS, as amended) listed and not struck off in Schedule 2 attached to this letter. All other Current Contracts, including any contracts not on the attached Schedule 2 are to be terminated as of the Closing Date. In particular, the fixed rate contract with Ontario Energy Savings for the supply of natural gas is to be terminated.

We confirm that a new agreement will be entered into with Extendicare to provide management services to the facility.

We note that some of the Current Contracts we are prepared to assume will be renewed following the date of this letter. We require any renewal period to be no more than 1 year, unless we specifically agree otherwise.

Yours truly,

  
Robert Yoandis  
Vice-President

c. Blaney McMurtry LLP  
2 Queen Street East  
Suite 1500  
Toronto, Ontario M5C 3G5

Attention: Eric Golden

000253

Vendor Name	Service Provided	Term of Contract	Term	Billing Cycle	Pricing	Number of visits per year
1. Aden Earthworks	Snow removal	2 years	Nov 2010 to Apr 2012	Billed monthly at \$550.00 per month	\$3,300.00	when there is a snow fall
2. ADITYCO	Security	on-going	March 2005 to undetermined date	billed quarterly at \$484.88 per month	\$1,939.52	on call, response service
3. Central East Local Health Integration Network	Service Accountability Agreement	2 years, 9 months	July 1, 2010 to March 31, 2013	not applicable	not applicable	not applicable
4. City Water International Inc.	Water filtration system	5 years	Sept 2009 to Sept 2014	Billed quarterly at \$406.12 per quarter	\$1,624.48	lease of equipment
5. Daniela Rusu	Foot Care practitioner	2 years	sept 2009 to sept 2011	not applicable	Residents pay \$25.00 per visit	once a week
6. Futuressed	Incontinence Supplies	3 years	January 2011 to December 2014	expenditures in excess of the monthly funding from the MOH of \$1.20 per resident day is reimbursed 100%.	Varies	not applicable
7. Golden Beauticism	Hair services	1 year	Expired June 2010	every week, the amount is dependant on the number of hair styling	75% of all revenues	once a week
8. Golden Care Dental Services	Dental Care	No term length - Either party may terminate with 60 days notice	Aug 2009 to undetermined time.	not applicable	Charged directly to the resident	monthly pickup
9. Organic Resource	collection of waste	On-going	April 9, 2010 to undetermined time	Billed every 12 weeks, \$147.00 every 12 weeks	\$637.00	every 12 weeks
10. Organic Resource	Grease Trap	3 years	July 2010 to July 2013	Not applicable	warranty, no cost	6 number of visits per year

SCHEDULE 2  
CONTRACTS

Vendor Name	Service Provided	Term of Contract	Term	Billing Cycle	Pricing	Number of visits per year
11. Prothem	heating and cooling systems	1 year	May 2010 to May 2011	billed quarterly at \$2,777.00 plus gst	\$12,552.04	quarterly inspection <i>not renewed at expiry on May 2011</i>
12. Rona	Purchase of Maintenance supplies	on-going	November 2009 to undetermined date	billed for each time we go in to buy an item, maximum of \$2,000.00	varies	Not applicable
13. Schindler	Elevator maintenance and inspection	on-going	June 2009 to undetermined time	billed monthly at \$1,476.71 per month	\$17,720.52	every 6 months inspection, and on call
14. Service Employees International Union Local 204	Collective Agreement for Full Time and Part time effective July 26, 2004 and per the Interest Arbitration dated May 7, 2007	to July 31, 2007 plus a further 3 years as a further 3 years as per the Interest Arbitration	July 31, 2010	not applicable	see agreement	not applicable
15. Sharp Direct	Photocopiers	on-going	as long as we choose to lease the equipment	monthly billing of the number of black and white copies that were done	0.0135 per copy	billed monthly
16. Shaw	Cable	on-going		billed monthly at \$151.08 per month	\$1,812.96	ongoing service
17. Shoppers Home Health	Lifts	1 year	Nov 2010 to Oct 2011	Fee paid annually as per the number of lifts, \$235.00 per lift	\$8,497.60	annual inspection, as service is required
18. Shred-It	Shredding services	3 years	December 2010 to December 2013	billed monthly at \$105.75 per pickup plus the weight amount of the paper shredded	varies	monthly pick up
19. Stericycle	Sharps and waste	5 years	Nov 2009 to Nov 2014	billed monthly at \$314.60 per month	\$3,775.20	monthly pickup
20. STL diagnostic Imaging Inc	x-ray services	2 years	December 2010 to December 2012	not applicable	\$0.00	on-call services

000254

SCHEDULE 2  
CONTRACTS

Vendor Name	Service Provided	Term of Contract	Term	Billing Cycle	Pricing	Number of visits per year on call with referrals
21. The Scarborough Hospital	Nurse Practitioners	Indefinite	Aug 2010 to undetermined time	not applicable	\$0.00	
22. Yee Hong	Physiotherapy	indefinite	June 2009 to undetermined time	not applicable	\$0.00	3 times a week
Enercare	Boiler		Feb 2011 to undetermined time.			
Enercare	Boiler + Storage Tanks		Feb, 2011 to undetermined time			
Enercare	Boiler		March 2011 to undetermined time.			

# TAB L



IN THE MATTER OF THE RECEIVERSHIP OF  
CRAIGLEE NURSING HOME LIMITED

000256

**Receiver's Interim Statement of Receipts and Disbursements  
for the period April 28, 2009 to October 27, 2011**

**Receipts**

1. Ministry of Health Funding	\$	19,007,872
2. Cash in bank		604,990
3. Receipts from Public Guardian Trustee		44,606
4. Interest		19,459
5. Insurance refunds		245
<b>6. Total receipts</b>	<b>\$</b>	<b>19,677,172</b>

**Disbursements**

7. Funding to Craiglee Nursing Home	\$	16,299,159
8. Receiver fees		560,040
9. Legal fees		187,002
10. HST		33,450
11. GST		24,222
12. Operating costs for 9 Vanbrugh		20,034
13. Bank charges		1,834
14. Consulting fees		1,000
15. Postage and courier		484
16. Security		428
17. Travel expenses		223
18. Telephone		205
19. Photocopies		93
20. Filing fee		70
<b>21. Total disbursements</b>	<b>\$</b>	<b>17,128,244</b>
<b>22. Excess of receipts over disbursements</b>	<b>\$</b>	<b>2,548,928</b>

# TAB 3

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Commercial List)

BETWEEN:

DESJARDINS FINANCIAL SECURITY LIFE  
ASSURANCE COMPANY

Applicant

- and -

CRAIGLEE NURSING HOME LIMITED

Respondent

---

AFFIDAVIT OF HARTLEY M. BRICKS  
(Sworn October 31, 2011)

---

I, **Hartley M. Bricks**, of the City of Toronto, in the Province of Ontario,  
**MAKE OATH AND SAY:**

1. I am a Vice-President of Deloitte & Touche Inc., the court appointed interim receiver and receiver and manager (the "**Receiver**") of the assets, undertakings and properties of Craiglee Nursing Home Limited ("**Craiglee**"). As such, I have personal knowledge of the matters to which I hereinafter refer.
2. Attached hereto as **Exhibit "A"** is a summary of the accounts issued by the Receiver for Craiglee.
3. Attached hereto as **Exhibit "B"** are true copies of the accounts of the Receiver with respect to Craiglee, including a detailed description of the activities, number of hours worked, applicable hourly rates, and totals. The Receiver's average hourly rate charged over this period is \$469. I confirm that these accounts accurately reflect the services provided by the Receiver in this proceeding.

4. Based on my review of the Craiglee accounts and my personal knowledge of this matter, the Craiglee accounts represent a fair and accurate description of the services provided and the amounts charged by the Receiver.

000258

5. I swear this affidavit in support of the Receiver's Motion for, among other things, approval of its fees and disbursements and for no other or improper purpose.

SWORN before me at the City of  
Toronto, in the Province of Ontario, on  
October 31, 2011



Commissioner for Taking Affidavits

Daniel Raphael Weisz, a Commissioner, etc.,  
Province of Ontario  
for Deloitte & Touche Inc.,  
Trustee in Bankruptcy.  
Expires June 5, 2014.

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)  
)  
)

  
HARTLEY M. BRICKS

# **TAB A**

000259

This is Exhibit "A" referred to  
in the Affidavit of HARVEY BRUES  
Sworn before me this 31<sup>ST</sup> day of  
OCTOBER 2011  
A Commissioner, etc.

## Exhibit "A"

Summary of Invoices Issued by the Receiver for  
Craiglee Nursing Home Limited

Daniel Raphael Weisz, a Commissioner, etc.  
Province of Ontario  
for Deloitte & Touche Inc.,  
Trustee in Bankruptcy.  
Expires June 5, 2014.

<u>Invoice Date</u>	<u>Invoice Period</u>	<u>Amount Invoiced</u> <u>(including GST/HST)</u>
August 6, 2010	June 1, 2010 to June 30, 2010	\$ 30,992.85
August 6, 2010	July 1, 2010 to July 31, 2010	15,355.57
October 15, 2010	August 1, 2010 to August 31, 2010	11,079.65
October 15, 2010	September 1, 2010 to September 30, 2010	19,050.67
December 17, 2010	October 1, 2010 to October 31, 2010	21,037.78
December 17, 2010	November 1, 2010 to November 30, 2010	12,222.65
February 3, 2011	December 1, 2010 to December 31, 2010	12,574.64
March 8, 2011	January 1, 2011 to January 31, 2011	14,804.13
March 23, 2011	February 1, 2011 to February 28, 2011	11,775.73
April 19, 2011	March 1, 2011 to March 31, 2011	25,188.83
May 26, 2011	April 1, 2011 to April 30, 2011	20,023.60
July 15, 2011	May 1, 2011 to May 31, 2011	11,939.58
July 15, 2011	June 1, 2011 to June 30, 2011	15,043.13
September 1, 2011	July 1, 2011 to July 31, 2011	10,160.96
		<u>\$ 231,249.77</u>

# TAB B

# Deloitte.

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

000260

Tel: 416-601-6150  
Fax: 416-601-6690  
www.deloitte.ca

Private and Confidential

Craiglee Nursing Home Limited  
c/o Deloitte & Touche Inc.  
181 Bay Street, Suite 1400  
Toronto, Ontario  
M5J 2V1

Date: August 5, 2010  
Invoice No: 2683167  
Client/Mandate No: 741075.5600598  
Billing Partner: Daniel R. Weisz

GST Registration No: 133245290

This is Exhibit "B" - marked in  
in the Affidavit of HARTWY BRICK  
Sworn before me this 31<sup>st</sup> day of  
October 2011  
A Commissioner, etc.  
Daniel Raphael Weisz, a Commissioner, etc.  
Province of Ontario  
for Deloitte & Touche Inc.,  
Trustee in Bankruptcy.  
Expires June 5, 2014.

## Invoice #10

RE: Craiglee Nursing Home Limited ("Craiglee" or the "Company") -  
Receivership

To professional services rendered in connection with the appointment  
of Deloitte & Touche Inc. as Court-appointed Interim Receiver and  
Receiver and Manager ("Receiver") of Craiglee for the period June 1,  
2010 to June 30, 2010:

- Correspondence on June 1 and 2, 2010 with Mr. Rod Cartagena of Craiglee regarding staffing matters;
- Review on June 1, 2010 the operating results for April 2010 and forward same to Mr. Steven Martin of Desjardins Financial Security Life Assurance Company ("Desjardins");
- Review and respond on June 3, 2010 to correspondence from Mr. Martin regarding Canada Mortgage and Housing Corporation ("CMHC") requirements in connection with the proposed marketing program;
- Review on June 4, 2010 of correspondence regarding hydro charges and respond to same;
- Discussion on June 4, 2010 with Mr. John Jensen of John A. Jensen Realty Inc. regarding the proposed marketing and sale program and CMHC requirements;
- Discussion on June 9, 2010 with Mr. Eamonn O'Rafferty of CMHC regarding various matters and provide various financial information regarding Craiglee;
- Correspondence on June 9, 2010 with Mr. Martin regarding the



monthly payment notice from the Ministry of Health and Long-Term Care;

- Correspondence on June 9, 2010 with Extendicare (Canada) Inc. ("Extendicare") regarding its cash flow funding request and property tax payments;
- Discussion on June 11, 2010 with Dr. Andrew Oto, Craiglee's medical director, regarding the status of the facility;
- Review and respond on June 14, 2010 to correspondence from Ms. Celia McDougall regarding the status of Craiglee;
- Review on June 14, 2010 of correspondence from Mr. Jensen regarding the proposed marketing and sale program;
- Review on June 14, 2010 of e-mail correspondence and voice message from Mr. Robert Kelly of Extendicare and execute memorandum of agreement regarding a former Craiglee employee;
- Review on June 14, 2010 of correspondence from Extendicare regarding the status of the Service Accountability Agreement with the Central East Local Health Integration Network (the "LHIN");
- Correspondence on June 14, 2010 with Ms. Angie Heinz of Craiglee regarding operating matters and new hires;
- Correspondence on June 15, 2010 with Extendicare regarding its cash flow funding request for Craiglee;
- Correspondence on June 15, 2010 with Mr. Martin regarding obtaining a copy of the Phase 1 Environmental Site Assessment for Craiglee;
- Correspondence on June 15 and 16, 2010 with Extendicare regarding various operational and financial results;
- Correspondence on June 18, 2010 with Ms. Heinz regarding occupancy statistics and other matters;
- Correspondence on June 18, 2010 with Mr. Kelly regarding the status of pre-receivership grievances;
- Preparation of the Receiver's First Report to Court and forward a draft of same on June 18, 2010 to Mr. Eric Golden of Blaney McMurtry LLP for his review;
- Discussion on June 21, 2010 with Mr. Golden of Blaney McMurtry LLP ("Blaneys") regarding the status of his review of the draft Report to Court;
- Preparation for and attendance on a conference call on June 23, 2010 with Desjardins and CMHC regarding the sale process and

subsequent discussion with Mr. Jensen regarding same;

- Discussion on June 23, 2010 with Ms. Margaret Lazure of Extendicare regarding employee matters;
- Review on June 26 and 28, 2010 of the Service Accountability Agreement ("SAA") with the LHIN and forward same to Blaneys for its comments;
- Correspondence on June 28, 2010 with Ms. Miraliza Ferreros of Marsh Canada Limited regarding adding the LHIN as Additional Insured on Craiglee's insurance policies pursuant to the terms of the SAA;
- Discussion on June 28 and 29, 2010 with Mr. Golden regarding the SAA and complete same;
- Review on June 29, 2010 of a proposed flyer prepared by Jensen for the marketing of Craiglee;
- Correspondence on June 30, 2010 with Extendicare regarding compliance with the terms of the SAA;
- Forward on June 30, 2010 the Receiver's signed SAA to the LHIN; and
- To all other administrative matters with respect to the receivership administration, including all meetings, telephone attendances, written and verbal correspondence to facilitate the foregoing.

000263

A summary of hours and rates is as follows:

Staff	Hours	Hourly Rates	Total Fees
Daniel R. Weisz, CA•CIRP, CIRP, Senior Vice President	6.6	\$550.00	\$ 3,630.00
Hartley Bricks, MBA, CA•CIRP, Vice President	55.4	465.00	25,761.00
Rose Brown, Estate Administrator	<u>0.9</u>	140.00	<u>126.00</u>
<b>Total Hours</b>	<b><u>62.9</u></b>		
		Our Fee	\$29,517.00
		GST @ 5%	\$1,475.85
	<b>Amount Payable</b>		<b>\$30,992.85</b>

Payable upon receipt to Deloitte & Touche Inc.



Daniel R. Weisz, CA•CIRP, CIRP  
Senior Vice President  
#521769

# Deloitte.

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

Tel: 416-601-6150  
Fax: 416-601-6690  
www.deloitte.ca

000264

## Private and Confidential

Craiglee Nursing Home Limited  
c/o Deloitte & Touche Inc.  
181 Bay Street, Suite 1400  
Toronto, Ontario  
M5J 2V1

Date: August 6, 2010  
Invoice No: 2683172  
Client/Mandate No: 741075.5600598  
Billing Partner: Daniel R. Weisz

HST Registration No: 133245290

## Invoice #11

**RE: Craiglee Nursing Home Limited ("Craiglee" or the "Company") -  
Receivership**

To professional services rendered in connection with the appointment  
of Deloitte & Touche Inc. as Court-appointed Interim Receiver and  
Receiver and Manager ("Receiver") of Craiglee for the period July 1,  
2010 to July 31, 2010:

- Correspondence on July 2, 2010 from Mr. Eric Golden of Blaney McMurtry LLP regarding Desjardins Financial Security Life Assurance Company's ("Desjardins") Mortgage Statement in respect of Craiglee;
- Correspondence on July 5, 2010 with Ms. Heinz regarding the status of the Ministry of Health and Long-Term Care's (the "MOH") position on the CMI issue;
- Correspondence on July 5, 2010 with Extendicare (Canada) Inc. ("Extendicare") regarding a trust account audit;
- Review on July 5, 2010 and provide comments to Mr. John Jensen of John A. Jensen Realty Inc. regarding the marketing flyer for Craiglee; provide revised flyer to Mr. Larry Doraty of Canada Mortgage and Housing Corporation ("CMHC");
- Review on July 5, 2010 the May 2010 Operating Report and forward same to Mr. Steven Martin of Desjardins and Mr. Eamon O'Rafferty of CMHC;
- Discussion on July 5, 2010 with Ms. Lindsay Wyers of the Central East Local Health Integration Network (the "LHIN") regarding changes to the Service Accountability Agreement (the "SAA");

Craiglee Nursing Home Limited - Receivership

August 6, 2010

Page 2 of 4 – Invoice #10

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- Discussion on July 6, 2010 with Mr. Eric Golden of Blaney McMurtry LLP ("Blaney") regarding the Receiver's First Report to the Court;
- Review and execute on July 6, 2010 employment offer letters;
- Forward on July 6, 2010 the Long-Term Care Home Licence to Craiglee for posting;
- Preparation on July 7, 2010 of Acknowledgement in connection with the SAA and forward same to Ms. Wyers; review Blaney's comments on Court report and revise the report;
- Revise on July 8, 2010 the Court Report and forward to Mr. Cliff Prophet of Gowling Lafleur Henderson LLP for comments;
- Correspondence on July 8, 2010 with Mr. Robert Kelly of Extendicare regarding a union matter;
- Discussion on July 8, 2010 with Ms. Wyers of the LHIN regarding changes to the SAA and e-mail correspondence regarding same;
- Discussion on July 12, 2010 with Ms. Wyers regarding the revised SAA and review and execute same and return to Ms. Wyers;
- Review on July 13, 2010 correspondence from Extendicare regarding the monthly cash flow funding request and respond to same;
- Review on July 14, 2010 correspondence from Blaneys regarding the Human Rights Tribunal's response to the Receiver's position on a human rights complaint;
- Review on July 15, 2010 of census report and forward same to Mr. Martin;
- Discussion on July 16, 2010 with Mr. Scott Tracze regarding a union issue;
- Finalize on July 16, 2010 the Receiver's affidavit of fees; subsequent correspondence with Blaneys regarding same;
- Review and execute on July 20, 2010 employment offer letters;
- Correspondence on July 21, 2010 to Mr. Loder of Extendicare regarding utilities payments;
- Correspondence on July 22, 2010 with Mr. Kelly regarding offer letters;
- Correspondence on July 26, 2010 with Mr. Eamon O'Rafferty of CMHC regarding the status of the sale process;
- Correspondence on July 26, 2010 with Ms. Heinz regarding the MOH's decision to retroactively correct the CMI for Craiglee;

Craiglee Nursing Home Limited - Receivership

August 6, 2010

Page 3 of 4 - Invoice #10


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- Forward on July 26, 2010 the SAA to Craiglee for posting at the home and website;
- Correspondence on July 26, 2010 with Extendicare regarding payroll funding;
- Telephone discussion on July 26, 2010 with a former employee regarding their record of employment and final payroll and correspondence with Extendicare re same;
- Correspondence on July 29, 2010 with Ms. Sonia Cardoso of Craiglee regarding pre-receivership invoices;
- Discussion on July 29, 2010 with Mr. Martin regarding the status of the motion to Court to approve the sale process and other matters;
- Review on July 30, 2010 of correspondence from Ms. Heinz regarding a proposal to prepare a fire safety and emergency plan and approve same;
- Review and forward on July 30, 2010 the June 2010 Operating Report to Mr. Martin and Mr. O'Rafferty; and
- To all other administrative matters with respect to the receivership administration, including all meetings, telephone attendances, execution and approval of disbursements, written and verbal correspondence to facilitate the foregoing.

A summary of hours and rates is as follows:

Staff	Hours	Hourly Rates	Total Fees
Bryan A. Tannenbaum, FCA•CIRP, CIRP, Senior Vice President	1.2	\$600.00	\$ 720.00
Daniel R. Weisz, CA•CIRP, CIRP, Senior Vice President	4.7	550.00	2,585.00
Hartley Bricks, MBA, CA•CIRP, Vice President	21.8	465.00	10,137.00
James Cook, Manager	0.2	385.00	77.00
Rose Brown, Estate Administrator	<u>0.5</u>	140.00	<u>70.00</u>
<b>Total Hours</b>	<b><u>28.4</u></b>		
		Our Fee	\$13,589.00
		HST @ 13%	\$1,766.57
		<b>Amount Payable</b>	<b>\$15,355.57</b>

Payable upon receipt to Deloitte & Touche Inc.

  
 Daniel R. Weisz, CA•CIRP, CIRP  
 Senior Vice President  
 #521774



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

Tel: 416-601-6150  
Fax: 416-601-6690  
www.deloitte.ca

000268

**Private and Confidential**

Craiglee Nursing Home Limited  
c/o Deloitte & Touche Inc.  
181 Bay Street, Suite 1400  
Toronto, Ontario  
M5J 2V1

Date: October 15, 2010  
Invoice No: 2716222  
Client/Mandate No: 741075.5600598  
Billing Partner: Daniel R. Weisz  
HST Registration No: 133245290

## Invoice #12

**RE: Craiglee Nursing Home Limited ("Craiglee" or the "Company") - Receivership**

**To professional services rendered in connection with the appointment of Deloitte & Touche Inc. as Court-appointed Interim Receiver and Receiver and Manager ("Receiver") of Craiglee for the period August 1, 2010 to August 31, 2010:**

- Review on August 3, 2010 of various correspondence; Discussion with Mr. Eric Golden of Blaney McMurtry LLP ("Blaneys") regarding the status of the motion to approve the Receiver's proposed marketing and sale process;
- Review on August 4, 2010 and execute engagement letter with Render & Partners LLP for an audit of the Resident Trust Account;
- Review on August 5, 2010 and respond to a request for information from Ms. Celia McDougall;
- Review on August 5, 2010 of Blaneys invoice to June 30, 2010;
- Correspondence on August 5, 2010 with Mr. Abdul Machher of Extendicare (Canada) Inc. ("Extendicare") regarding cash flow funding;
- Review on August 6, 2010 of Blaneys' comments on the draft court report and prepare revisions to same;
- Review on August 9, 2010 and execute various offer letters of employment;
- Correspondence on August 9, 2010 with Blaneys and Mr. Steven Martin of Desjardins Financial Security Life Assurance Company ("Desjardins") regarding payment of legal fees;

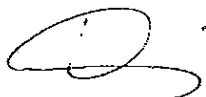


- Discussion on August 10, 2010 with Mr. Golden regarding status of the Receiver's report and affidavit and reconciliation of fees;
- Correspondence on August 10, 2010 with Bank of Nova Scotia regarding payment of the mortgage for 9 Vanbrugh Ave.;
- Finalize on August 12, 2010 the court report and forward materials to Blaneys;
- Review and provide comments on August 12, 2010 to Blaneys on the draft Notice of Motion;
- Return message on August 12, 2010 to Mr. Martin regarding the scheduled date for the Receiver's application to court;
- Correspondence on August 12, 2010 with Mr. Machher regarding property tax filings with the Ministry of Health and Long-Term Care;
- Correspondence on August 19, 2010 with Blaneys regarding the Receiver's application to court;
- Discussion on August 19, 2010 with Canada Mortgage and Housing Corporation ("CMHC") regarding the proposed sale process and the Receiver's application to court;
- Discussion on August 19, 2010 with Mr. John Jensen of John A. Jensen Realty Corp. regarding the status of the Receiver's application to court and the marketing program;
- Discussion on August 20, 2010 with a party interested in nursing home licences;
- Correspondence on August 23, 2010 with Blaneys regarding motion materials and court date;
- Review on August 23, 2010 of correspondence from CMHC and correspondence to Mr. Martin regarding same;
- Discussion on August 25, 2010 with Ms. Angie Heinz of Craiglee regarding status of various issues with the home;
- Correspondence on August 31, 2010 with Mr. Robert Kelly of Craiglee regarding union matters;
- Review on August 31, 2010 of July operating results and forward same to Desjardins and CMHC; and
- To all other administrative matters with respect to the receivership administration, including all meetings, telephone attendances, execution and approval of disbursements, written and verbal correspondence to facilitate the foregoing.

000270

A summary of hours and rates is as follows:

Staff	Hours	Hourly Rates	Total Fees
Daniel R. Weisz, CA•CIRP, CIRP, Senior Vice President	0.7	\$550.00	\$385.00
Hartley Bricks, MBA, CA•CIRP, Vice President	19.4	465.00	9,021.00
James Cook, Manager	0.2	385.00	77.00
Rose Brown, Estate Administrator	<u>2.3</u>	140.00	<u>322.00</u>
<b>Total Hours</b>	<u>22.6</u>		
		Our Fee	\$9,805.00
		HST @ 13%	1,274.65
		<b>Amount Payable</b>	<b>\$11,079.65</b>



Payable upon receipt to Deloitte & Touche Inc.

Daniel R. Weisz, CA•CIRP, CIRP  
Senior Vice President  
#526655



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

000271

Tel: 416-601-6150  
Fax: 416-601-6690  
www.deloitte.ca

**Private and Confidential**

Craiglee Nursing Home Limited  
c/o Deloitte & Touche Inc.  
181 Bay Street, Suite 1400  
Toronto, Ontario  
M5J 2V1

Date: October 15, 2010  
Invoice No: 2716270  
Client/Mandate No: 741075.5600598  
Billing Partner: Daniel R. Weisz

HST Registration No: 133245290

## Invoice #13

**RE: Craiglee Nursing Home Limited ("Craiglee" or the "Company") -  
Receivership**

**To professional services rendered in connection with the appointment  
of Deloitte & Touche Inc. as Court-appointed Interim Receiver and  
Receiver and Manager ("Receiver") of Craiglee for the period  
September 1, 2010 to September 30, 2010:**

- Review on September 1, 2010 of draft court order and provide comments to Mr. Eric Golden of Blaney McMurtry LLP ("Blaneys") regarding same;
- Attendance on September 1, 2010 in court regarding the Receiver's application to court to approve the marketing and sale process and various discussions with Mr. Golden regarding same;
- Correspondence on September 1, 2010 to Mr. John Jensen of John A. Jensen Realty Corp. ("Jensen Realty") regarding the sale process approval and correspondence to Extendicare (Canada) Inc. ("Extendicare") regarding due diligence materials;
- Correspondence on September 1, 2010 with Extendicare regarding court approval of the Receiver's marketing and sale process and requirement to provide information for marketing program;
- Correspondence on September 3, 2010 with Extendicare regarding cash flow funding and other matters;
- Review on September 3, 2010 of the listing agreement with Jensen Realty and provide comments to Mr. Jensen re same, review revised agreement and execute same;
- Review on September 7, 2010 of endorsement and entered court order;

- Review on September 7, 2010 of e-mail correspondence from Mr. S. Tracze of the SEIU regarding union issues and discussion regarding same with Ms. Angie Heinz of Craiglee;
- Finalize on September 7, 2010 of the marketing brochure and arrange for printing and courier to Canada Mortgage and Housing Corporation ("CMHC");
- Discussion on September 7, 2010 with Mr. Jensen regarding the status of the marketing and sale process;
- Review on September 8, 2010 of e-mail correspondence from Extendicare regarding employee issues at Craiglee;
- Correspondence on September 8, 2010 with Mr. Steven Martin of Desjardins Financial Security Life Assurance Company ("Desjardins") re status of the marketing and sale process;
- Attendance on September 8, 2010 at meeting with Ms. Heinz to discuss employee, union and general matters;
- Prepare for and attend at meeting on September 13, 2010 with representatives of Extendicare to discuss the status of the home and a town hall meeting to update the staff of Craiglee on the marketing and sale process;
- Correspondence on September 13, 2010 with Mr. Tracze regarding coordinating a meeting with the union stewards and a town hall meeting;
- Coordinate on September 15, 2010 the town hall meeting with staff;
- Correspondence on September 15, 2010 with Extendicare regarding requirement for audit of the 2009 Long-Term Care Home Annual Report;
- Correspondence on September 15, 2010 Mr. Eamonn O'Rafferty of CMHC regarding the marketing and sale process;
- Forward on September 15, 2010 to Mr. Martin the draft confidential information memorandum ("CIM") prepared by Jensen Realty;
- Review on September 16, 2010 and prepare comments on the draft CIM;
- Review on September 17, 2010 of Mr. Martin's comments on the draft CIM;
- Discussion on September 17, 2010 with Mr. Jensen regarding the draft CIM and advertisement; review and provide comments on same;
- Review on September 20, 2010 of correspondence from Mr. Jensen and respond to same;
- Review correspondence on September 21, 2010 and prepare for the meeting with the union representatives and the town hall meeting;
- Review on September 22, 2010 of correspondence from Blaneys

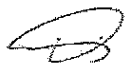
regarding correspondence received from the Human Rights Tribunal;

- Preparation for and attendance on September 22, 2010 at a meeting with Mr. Tracze and the union stewards to discuss the status of the receivership, the marketing and sale process and various union issues;
- Preparation for and attendance on September 22, 2010 at Craiglee to speak at the town hall meeting with staff;
- Prepare on September 22, 2010 of correspondence regarding monthly cash flow funding;
- Review on September 23, 2010 of correspondence from Mr. Jensen regarding advertising and forward to CMHC and Desjardins;
- Discussion on September 23, 2010 with Mr. Eamonn O'Rafferty of CMHC regarding the status of CMHC's process for posting the home for sale and prepare correspondence to CMHC regarding same;
- Correspondence on September 23, 2010 to/from Extendicare regarding union matters;
- Review on September 24, 2010 of correspondence from Blaneys regarding union matters;
- Correspondence on September 28, 2010 with CMHC regarding the marketing and sale program;
- Correspondence on September 29, 2010 with Marsh Canada Limited ("Marsh") regarding 9 Vanbrugh insurance coverage;
- Correspondence on September 29, 2010 with Ms. Heinz regarding correspondence received from the Medical Director;
- Review on September 29, 2010 of August 2010 financial statements;
- Review on September 30, 2010 and respond to correspondence from Ms. Heinz regarding a capital expenditure request;
- Review on September 30, 2010 and respond to Extendicare regarding quotes for audit of the 2009 Long-Term Care Home Annual Report;
- To all other administrative matters with respect to the receivership administration, including all meetings, telephone attendances, execution and approval of disbursements, written and verbal correspondence to facilitate the foregoing.

000274

A summary of hours and rates is as follows:

Staff	Hours	Hourly Rates	Total Fees
Daniel R. Weisz, CA•CIRP, CIRP, Senior Vice President	8.0	\$550.00	\$4,400.00
Hartley Bricks, MBA, CA•CIRP, Vice President	25.8	465.00	11,997.00
Alison Brown, Estate Administration	0.4	140.00	56.00
Rose Brown, Estate Administrator	<u>2.9</u>	140.00	<u>406.00</u>
<b>Total Hours</b>	<u><b>37.1</b></u>		
		Our Fee	\$16,859.00
		HST @ 13%	2,191.67
		<b>Amount Payable</b>	<b>\$19,050.67</b>



Payable upon receipt to Deloitte & Touche Inc.

Daniel R. Weisz, CA•CIRP, CIRP  
Senior Vice President  
#526656



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

Tel: 416-601-6150  
Fax: 416-601-6690  
www.deloitte.ca

000275

**Private and Confidential**

Craiglee Nursing Home Limited  
c/o Deloitte & Touche Inc.  
181 Bay Street, Suite 1400  
Toronto, Ontario  
M5J 2V1

Date: December 17, 2010  
Invoice No: 2754591  
Client/Mandate No: 741075.5600598  
Billing Partner: Daniel R. Weisz  
HST Registration No: 133245290

## Invoice #14

RE: Craiglee Nursing Home Limited ("Craiglee" or the "Company") -  
Receivership

To professional services rendered in connection with the appointment  
of Deloitte & Touche Inc. as Court-appointed Interim Receiver and  
Receiver and Manager ("Receiver") of Craiglee for the period  
October 1, 2010 to October 31, 2010:

- Review on October 1, 2010 of files and provide an address to  
Blaney McMurtry LLP ("Blaneys");
- Review on October 1, 2010 of marketing documents provided by  
Mr. John Jensen of John A. Jensen Realty Inc. ("Jensen Realty");
- Draft on October 1, 2010 of the Form of Offer and Agreement of  
Purchase and Sale template;
- Correspondence on October 1, 2010 with Mr. Jensen regarding  
marketing materials;
- Discussion on October 1, 2010 with Mr. Steven Martin of  
Desjardins Financial Security Life Assurance Company  
("Desjardins") regarding the status of the marketing process and  
other matters;
- Prepare on October 4, 2010 of materials for Mr. Jensen's marketing  
website;
- Discussion on October 4, 2010 with Mr. Eamonn O'Rafferty of  
Canada Mortgage and Housing Corporation ("CMHC") regarding  
the status of the marketing process;
- Review on October 8, 2010 of weekly census report and forward  
same to Mr. Martin;
- Review on October 8, 2010 of correspondence from Mr. Jensen  
regarding the status of the marketing program;

- Review on October 13, 2010 of Notice of Application under the Occupational Health and Safety Act ("OHS Act") and forward same to Blaneys;
- Telephone discussion on October 13, 2010 with Mr. O'Rafferty regarding the status of Craiglee;
- Telephone discussion on October 15, 2010 with Ms. Elaine Budd and Ms. Brenda Glover of Craiglee;
- Correspondence on October 15, 2010 with Desjardins regarding listing agreement and marketing updates;
- Review on October 15, 2010 of weekly census report and forward same to Mr. Martin;
- Discussion on October 15, 2010 with Mr. Bob Kelly of Extendicare (Canada) Inc. ("Extendicare") regarding employee matters;
- Discussion on October 15, 2010 with Ms. Budd regarding union matters; subsequent voice mail message to Ms. Angie Heinz of Craiglee regarding same;
- Review on October 18, 2010 of correspondence from a family member of a Craiglee resident;
- Telephone discussions on October 18, 2010 with Ms. Budd regarding her concerns;
- Review on October 18, 2010 of correspondence from a family member of a Craiglee resident and forward same to Extendicare and arrange meeting to discuss same;
- Discussion on October 18, 2010 with Ms. Heinz regarding resident issues and union matters;
- Discussion on October 19, 2010 with Mr. Martin regarding the status of various matters;
- Discussion on October 19, 2010 with Mr. Kelly regarding union matters;
- Correspondence on October 19, 2010 with Ms. Heinz regarding various matters;
- Provide on October 19, 2010 various materials to Mr. Jensen for the marketing process;
- Review and update on October 19, 2010 the Form of Offer and draft Agreement of Purchase and Sale ("APS") and forward to Blaneys for comments;
- Review on October 20, 2010 of correspondence from Craiglee staff regarding a family member of a Craiglee resident;
- Review on October 20, 2010 of e-mail correspondence; prepare for and attend on October 20, 2010 on a conference call with Mr. Kelly, Ms. Kris Murray of Extendicare and Ms. Heinz to discuss correspondence received from a family member of a Craiglee



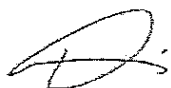
resident and union matters;

- Correspondence on October 21, 2010 with Ms. Heinz regarding lift contract, sick day accrual and other matters;
- Correspondence on October 21, 2010 with Mr. Jensen regarding the sale process;
- Review on October 22, 2010 of draft correspondence from Mr. Kelly to the SEIU and consider amendments;
- Review on October 25, 2010 of the weekly census report and forward same Mr. Martin;
- Review and provide comments on October 25, 2010 to Mr. Kelly on the draft letter to SEIU;
- Review and provide comments on October 25, 2010 on a draft response to the OHSA Application;
- Review on October 26, 2010 of correspondence from family members of a Craiglee resident;
- Review on October 26, 2010 of correspondence from a family member of a Craiglee resident and forward to Extendicare and Blaneys;
- Review on October 27, 2010 of e-mails regarding response from Ms. Heinz to a family member of a Craiglee resident;
- Draft on October 27, 2010 of correspondence to family members of a Craiglee resident;
- Review on October 28, 2010 of draft response to letter from a family member of a Craiglee resident and update;
- Prepare on October 28, 2010 a response to a family member of a Craiglee resident and forward to Extendicare and Blaneys for comments;
- Correspondence on October 28, 2010 with Ms. Heinz regarding the phone system at Craiglee;
- Finalize and send on October 29, 2010 the responding letter to a family member of a Craiglee resident; and
- To all other administrative matters with respect to the receivership administration, including all meetings, telephone attendances, execution and approval of disbursements, written and verbal correspondence to facilitate the foregoing.

A summary of hours and rates is as follows:

Staff	Hours	Hourly Rates	Total Fees
Daniel R. Weisz, CA•CIRP, CIRP, Senior Vice President	6.7	\$575.00	\$3,852.50
Hartley Bricks, MBA, CA•CIRP, Vice President	30.2	480.00	14,496.00
Anna Koroneos, Senior	0.2	225.00	45.00
Rose Brown, Estate Administrator	<u>1.6</u>	140.00	<u>224.00</u>
Total Hours	<u>38.7</u>		
		Our Fee	\$18,617.50
		HST @ 13%	2,420.28
		Amount Payable	\$21,037.78

Payable upon receipt to Deloitte & Touche Inc.



Daniel R. Weisz, CA•CIRP, CIRP  
Senior Vice President  
#529262



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

Tel: 416-601-6150  
Fax: 416-601-6690  
www.deloitte.ca

000279

**Private and Confidential**

Craiglee Nursing Home Limited  
c/o Deloitte & Touche Inc.  
181 Bay Street, Suite 1400  
Toronto, Ontario  
M5J 2V1

Date: December 17, 2010  
Invoice No: 2754718  
Client/Mandate No: 741075.5600598  
Billing Partner: Daniel R. Weisz

HST Registration No: 133245290

## Invoice #15

**RE: Craiglee Nursing Home Limited ("Craiglee" or the "Company") -  
Receivership**

**To professional services rendered in connection with the appointment  
of Deloitte & Touche Inc. as Court-appointed Interim Receiver and  
Receiver and Manager ("Receiver") of Craiglee for the period  
November 1, 2010 to November 30, 2010:**

- Discussion on November 2, 2010 with Mr. John Jensen of John A. Jensen Realty Inc. ("Jensen Realty") regarding the status of the sales process;
- Review on November 3, 2010 of Blaney McMurtry LLP's ("Blaneys") comments on the form of offer, revise and forward to Mr. Jensen;
- Respond on November 4, 2010 to information request from First National;
- Correspondence on November 4, 2010 with Ms. Angie Heinz of Craiglee regarding various matters;
- Respond on November 5, 2010 to information request by First National;
- Discussion on November 8, 2010 with Mr. Jensen regarding the sales process;
- Review various correspondence on November 8, 2010 from Ms. Heinz regarding leased equipment and employee matters;
- Review on November 8, 2010 of weekly census report and Desjardins Financial Security Life Assurance Company ("Desjardins");
- Provide on November 9, 2010 of various documents to Mr. Jensen regarding the sales process;
- Review on November 10, 2010 of a request for due diligence information, review of files and provide same to Mr. Jensen;
- Preparation on November 11, 2010 of reports pursuant to Section

246(2) of the Bankruptcy and Insolvency Act including statements of receipts and disbursements and forward same to the Official Receiver ("OR");

- Attendance on November 12, 2010 at a hearing before the Ontario Labour Relations Board regarding the Amodeo matter;
- Telephone discussion on November 16, 2010 with a CRA representative regarding CRA's enquiry on the status of the receivership;
- Review on November 17, 2010 and November 18, 2010 of e-mails from Extendicare (Canada) Inc. ("Extendicare") regarding Extendicare's communications with a family member of a Craiglee resident;
- Correspondence on November 18, 2010 with Ms. Heinz regarding various operational matters;
- Correspondence on November 18, 2010 with Mr. Jensen regarding interested parties;
- Review on November 19, 2010 of correspondence from Extendicare and respond to same;
- Review on November 22, 2010 of e-mail from Ms. Amodeo regarding complaint submitted and forward same to Mr. Bill Anderson of Blaneys;
- Correspondence on November 22, 2010 with Extendicare regarding November funding, CMI adjustment and in-year claw back;
- Discussion on November 25, 2010 with Mr. Jensen regarding the sales process;
- Correspondence on November 25, 2010 with Extendicare regarding license matters;
- Correspondence on November 26, 2010 with Ms. Heinz regarding bed condition and approval to purchase new beds;
- Review on November 26, 2010 of weekly census and forward to Desjardins;
- Discussion on November 29, 2010 with Mr. Eamonn O'Rafferty of Canada Mortgage and Housing Corporation regarding the status of the sales process;
- Correspondence on November 29, 2010 with Ms. Heinz regarding Service Accountability Agreement; and
- To all other administrative matters with respect to the receivership administration, including all meetings, telephone attendances, execution and approval of disbursements, written and verbal correspondence to facilitate the foregoing.

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**A summary of hours and rates is as follows:**

<b>Staff</b>	<b>Hours</b>	<b>Hourly Rates</b>	<b>Total Fees</b>
Daniel R. Weisz, CA●CIRP, CIRP, Senior Vice President	0.9	\$575.00	\$517.50
Hartley Bricks, MBA, CA●CIRP, Vice President	19.8	480.00	9,504.00
Anna Koroneos, Senior	2.6	225.00	585.00
Rose Brown, Estate Administrator	<u>1.5</u>	140.00	<u>210.00</u>
<b>Total Hours</b>	<u>24.8</u>		
		Our Fee	\$10,816.50
		HST @ 13%	1,406.15
		<b>Amount Payable</b>	<b>\$12,222.65</b>

**Payable upon receipt to Deloitte & Touche Inc.**

Daniel R. Weisz, CA●CIRP, CIRP  
Senior Vice President  
#529837

000282

## Private and Confidential

Craiglee Nursing Home Limited  
c/o Deloitte & Touche Inc.  
181 Bay Street, Suite 1400  
Toronto, Ontario  
M5J 2V1

Date: February 3, 2011  
Invoice No: 2771926  
Client/Mandate No: 741075.5600598  
Billing Partner: Daniel R. Weisz  
HST Registration No: 133245290

## Invoice #16

### RE Craiglee Nursing Home Limited ("Craiglee" or the "Company") - Receivership

To professional services rendered in connection with the appointment  
of Deloitte & Touche Inc. as Court-appointed Interim Receiver and  
Receiver and Manager ("Receiver") of Craiglee for the period  
December 1, 2010 to December 31, 2010:

- Correspondence on December 1, 2010 with Ms. Angie Heinz of Craiglee regarding the status of accounts receivable and provide an update to Mr. Steven Martin of Desjardins Financial Security Life Assurance Company ("Desjardins") on same;
- Correspondence on December 1, 2010 with Ms. Heinz regarding issues involved with the family of a Craiglee resident;
- Review on December 2, 2010 of questions from an interested party, discuss with Mr. Abdul Machher of Extendicare (Canada) Inc. ("Extendicare") and respond to same;
- Discussion on December 3, 2010 with an interested party regarding the status of the marketing and sale process;
- Correspondence on December 3, 2010 with Ms. Heinz regarding the purchase of chairs, leasing of assets and other matters; review of response prepared by Mr. William Anderson of Blaney McMurtry LLP ("Blaneys") regarding an Occupational Health and Safety Act claim;
- Correspondence on December 3 and 6, 2010 with a leasing company regarding the potential lease of a lift truck;
- Finalize on December 3, 2010 of the notice pursuant to section 246(2) of the *Bankruptcy and Insolvency Act* and forward same to

Craiglee Nursing Home Limited - Receivership

February 3, 2011

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the Official Receiver;

- Correspondence on December 6, 2010 with Ms. Heinz and Extendicare regarding issues involved with the family of a Craiglee resident;
- Discussion on December 7, 2010 with Mr. John A. Jensen of Jensen Realty Inc. regarding a letter of intent ("LOI") received; arrange a conference call with Mr. Brian Kimmel of First National Financial LP to discuss financing matters;
- Attendance on December 8, 2010 on a conference call with Mr. Kimmel and Mr. Jensen regarding financing matters and licensing; review of files regarding licensing and e-mail to Extendicare (Canada) Inc. ("Extendicare") regarding same;
- Discussions on December 9, 2010 with Ms. Carrie Oram of the Ministry of Health and Long Term Care ("MOH") regarding the length of Craiglee's license, review of the *Long-Term Care Home Act 2007* and the Regulations and prepare correspondence to Mr. Martin and Mr. Kimmel regarding same;
- Correspondence on December 10, 2010 with Extendicare regarding license issues; discussion with Mr. Jensen regarding the Receiver's response to the LOI; discussion with Mr. Martin regarding the status of the LOI and financing and licensing issues;
- Review on December 10, 2010 of correspondence from a family member of a Craiglee resident;
- Correspondence on December 13, 2010 with Extendicare regarding licensing matters;
- Review on December 14, 2010 of correspondence from a family member of a Craiglee resident and correspondence with Ms. Heinz and Extendicare regarding same;
- Review of correspondence on December 16, 2010 from Extendicare regarding cash flow funding required and attend upon forwarding the requested funds;
- Discussion on December 16, 2010 with Mr. Jensen regarding the status of the sale process;
- Review on December 17, 2010 of weekly cash census and forward to Mr. Martin;
- Review on December 17, 2010 of an LOI received and discuss same with Mr. Jensen;
- Review on December 20, 2010 of the LOI, prepare correspondence to Mr. Martin and Mr. Eric Golden of Blaneys regarding same; discussion with Mr. Martin regarding the LOI and the Receiver's position;
- Discussion on December 21, 2010 with Ms. Panshal of Canada Revenue Agency regarding the status of the sale process;

Craiglee Nursing Home Limited - Receivership

February 3, 2011

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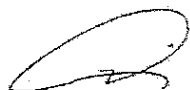
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- Review on December 21, 2010 of correspondence from Mr. Anderson regarding a Human Rights complaint and respond to same;
- Review on December 22, 2010 of correspondence from a family member of a Craiglee resident and prepare response to same;
- Review, complete and forward on December 23, 2010 of insurance application renewal form to Marsh Canada; and
- To all other administrative matters with respect to the receivership administration, including all meetings, telephone attendances, execution and approval of disbursements, written and verbal correspondence to facilitate the foregoing.

A summary of hours and rates is as follows:

Staff	Hours	Hourly Rates	Total Fees
Daniel R. Weisz, CA•CIRP, CIRP, Senior Vice President	1.9	\$575.00	\$1,092.50
Hartley Bricks, MBA, CA•CIRP, Vice President	20.2	480.00	9,696.00
Anna Koroneos, Senior	0.7	225.00	157.50
Rose Brown, Estate Administrator	<u>1.3</u>	140.00	<u>182.00</u>
<b>Total Hours</b>	<u>24.1</u>		
		Our Fee	\$11,128.00
		HST @ 13%	1,446.64
		<b>Amount Payable</b>	<b>\$12,574.64</b>

Payable upon receipt to Deloitte & Touche Inc.



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

#533282



Craiglee Nursing Home Limited - Receivership

March 8, 2011

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- Review on January 6, 2011 of cash flow funding requested by Extendicare;
- Review on January 7, 2011 of a Letter of Intent ("LOI") received from an interested party and discuss same with Mr. Jensen;
- Preparation on January 7, 2011 of a counter offer to the LOI received and forward to Mr. Jensen;
- Correspondence on January 10, 2011 with Ms. Heinz regarding a need to replace the telephone system at Craiglee;
- Review and update on January 10, 2011 the weekly census schedule for Craiglee;
- Review of correspondence on January 10, 2011 from Mr. Steven Martin of Desjardins Financial Security Life Assurance Company ("Desjardins") requesting an update on the status of various matters and respond to same;
- Correspondence on January 11, 2011 with Ms. Miraliza Ferreros of Marsh Canada Limited regarding insurance renewal matters;
- Correspondence on January 12, 2011 with Mr. Eric Golden of Blaney McMurtry LLP ("Blaneys") regarding the status of a resident issue;
- Review correspondence on January 12, 2011 from Ms. Alyson Dalton of First National Financial LP regarding the status of the sale process and respond to same;
- Review on January 12, 2011 of revised LOI received from an interested party and provide analysis of same to Mr. Martin;
- Discussion on January 13, 2011 with Mr. Jensen regarding offers received; subsequent discussion with Mr. Martin regarding same;
- Correspondence on January 13, 2011 with Ms. Ferreros regarding renewal of insurance;
- Prepare on January 13, 2011 a counter offer to the LOI and provide to Mr. Jensen;
- Correspondence on January 14, 2011 with Ms. Heinz regarding employee matters;
- Discussion on January 14, 2011 with Mr. Golden regarding the status of various matters;
- Correspondence on January 17, 2011 with Ms. Heinz regarding various operating issues;
- Review on January 17, 2011 of correspondence from the Ministry of Health and Long-Term Care ("MOHLTC") regarding the Revenue Occupancy Report and discuss same with Extendicare;
- Review and update on January 17, 2011 the weekly census schedule for Craiglee and forward same to Mr. Martin;
- Discussion on January 18, 2011 with Ms. Heinz regarding employee

Craiglee Nursing Home Limited - Receivership

March 8, 2011

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matters;

- Correspondence on January 18, 2011 with Extendicare regarding cash flow funding requirements;
- Telephone discussion on January 19, 2011 with Mr. Scott Tracze of the Service Employees International Union ("SEIU") regarding union issues at Craiglee;
- Discussion on January 19, 2011 with Ms. Heinz regarding status of various matters;
- Review on January 19, 2011 of correspondence from Mr. Jensen regarding the status of the sale process;
- Correspondence on January 20, 2011 with Mr. Jensen regarding the status of offers received;
- Review on January 24, 2011 of correspondence from a family member of a former Craiglee resident;
- Exchange of correspondence on January 24, 2011 with Mr. Tracze regarding his request for a meeting to be scheduled;
- Discussion on January 24, 2011 with Ms. Heinz regarding various employee and facility matters;
- Discussion on January 24, 2011 with Mr. Jensen regarding the status of the LOI and review of revisions to same;
- Prepare correspondence on January 24, 2011 to Extendicare regarding monthly cash flow funding;
- Prepare correspondence on January 24, 2011 to a family member of a Craiglee resident;
- Review correspondence on January 25, 2011 from Ms. Heinz regarding information she received from SEIU;
- Review on January 24, 2011 of Jensen Realty's monthly marketing update;
- Discussion on January 25, 2011 with Mr. Martin regarding the status of the LOI;
- Review on January 25, 2011 of correspondence from Ms. Heinz regarding employee and union matters and forward same to Mr. William Anderson of Blaneys and arrange meeting to discuss same;
- Discussion on January 26, 2011 with Mr. Paul Tuttle of Extendicare regarding various matters at Craiglee;
- Attendance at a meeting on January 26, 2011 with Mr. William Anderson of Blaneys to discuss various labour issues at Craiglee;
- Correspondence on January 26, 2011 with Mr. Tracze regarding the handling of grievances;
- Review on January 26, 2011 of an MOHLTC inspection report;

- Discussion on January 26, 2011 with Mr. Anderson regarding employee and union matters;
- Discussion on January 26, 2011 with Mr. Golden regarding status of sale and union/employee matters;
- Discussion on January 26, 2011 with Mr. Jensen regarding the status of the revised LOI received;
- Discussion on January 27, 2011 with Mr. Jensen regarding the revised LOI received and review of same;
- Discussion on January 27, 2011 with Mr. Martin regarding the status of the revised LOI and timing of a proposed transaction;
- Attendance on January 28, 2011 on a conference call with Mr. Jeff Rhineland of Extendicare and Ms. Heinz regarding employee and union matters;
- Execute on January 28, 2011 the LOI and forward same to Mr. Jensen;
- Discussion on January 28, 2011 with Mr. Jensen regarding the sale process and interested parties;
- Discussion on January 28, 2011 with an interested party regarding the sale process;
- Correspondence on January 28, 2011 with Mr. Martin regarding Craiglee admissions;
- Review on January 28, 2011 of the December 2010 monthly reporting package prepared by Extendicare;
- Review and update on January 31, 2011 the weekly census schedule for Craiglee and forward same to Mr. Martin;
- Review on January 31, 2011 of an LOI and draft agreement of purchase and sale and prepare correspondence to Blaneys and Extendicare regarding information required to finalize same; and
- To all other administrative matters with respect to the receivership administration, including all meetings, telephone attendances, execution and approval of disbursements, written and verbal correspondence to facilitate the foregoing.

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A summary of hours and rates is as follows:

Staff	Hours	Hourly Rates	Total Fees
Daniel R. Weisz, CA•CIRP, CIRP, Senior Vice President	4.2	\$575.00	\$2,415.00
Hartley Bricks, MBA, CA•CIRP, Vice President	22.0	480.00	10,560.00
Rose Brown, Estate Administrator	0.9	140.00	<u>126.00</u>
<b>Total Hours</b>	<u>27.1</u>		
		Our Fee	\$13,101.00
		HST @ 13%	1,703.13
		<b>Amount Payable</b>	<b>\$14,804.13</b>

Payable upon receipt to Deloitte & Touche Inc.



Daniel R. Weisz, CA•CIRP, CIRP  
Senior Vice President  
#553455

## Private and Confidential

Craiglee Nursing Home Limited  
c/o Deloitte & Touche Inc.  
181 Bay Street, Suite 1400  
Toronto, Ontario  
M5J 2V1

Date: March 23, 2011  
Invoice No: 2798703  
Client/Mandate No: 741075.5600598  
Billing Partner: Daniel R. Weisz

HST Registration No: 133245290

## Invoice #18

### REGARDING Craiglee Nursing Home Limited ("Craiglee" or the "Company") - Receivership

To professional services rendered in connection with the appointment of Deloitte & Touche Inc. as Court-appointed Interim Receiver and Receiver and Manager ("Receiver") of Craiglee for the period February 1, 2011 to February 28, 2011:

- Discussion on February 1, 2011 with Mr. Jeff Rhineland of Extendicare (Canada) Inc. ("Extendicare") regarding the status of various labour relations and HR matters; review of various correspondence from Extendicare and respond to same;
- Correspondence on February 1, 2011 with Mr. Brian Kimmel of First National Financial LP ("First National") regarding the status of the letter of intent accepted by the Receiver;
- Correspondence on February 1, 2011 with Mr. Sheldon Rotman of Easylease Corp. regarding issues with leasing telephone equipment for Craiglee;
- Review on February 2, 2011 of correspondence from Ms. Ritva Gallant of the Central East LHIN (the "LHIN") requesting an update on various matters and discuss a response to same with Ms. Angie Heinze of Craiglee;
- Prepare on February 3, 2011 a response to the LHIN regarding an update on Craiglee;
- Prepare on February 3, 2011 a response to correspondence received from a family member of a Craiglee resident;

Craiglee Nursing Home Limited - Receivership

March 23, 2011

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- Review and respond on February 4, 2011 to correspondence received from Mr. Rotman regarding a quote for a lease of telephone equipment;
- Correspondence on February 4, 2011 from Ms. Sonia Cardoso of Craiglee regarding locating a property tax statement and request same of First National;
- Discussion on February 4, 2011 with Mr. John A. Jensen of Jensen Realty Inc. regarding the Ministry of Health and Long-Term Care ("MOH") bed licensing transfer approval process;
- Telephone discussion on February 4, 2011 with Ms. Carrie Oram of the MOH regarding the bed licensing transfer approval process;
- Discussion on February 7, 2011 with Mr. Eamonn O'Rafferty of Canada Mortgage and Housing Corporation ("CMHC") regarding 9 Vanbrugh Ave and prepare correspondence to Mr. O'Rafferty regarding same;
- Revise and finalize on February 7, 2011 a response to Ms. Gallant regarding a status update on matters at Craiglee;
- Review on February 7, 2011 of correspondence from Ms. Heinze regarding a water heater issue;
- Review on February 7, 2011 the weekly census and provide same to Mr. Steven Martin of Desjardins Financial Security Life Assurance Company ("Desjardins");
- Correspondence on February 7, 2011 to Diversicare regarding the status of information required for the agreement of purchase and sale;
- Revise and finalize on February 7, 2011 a response to correspondence received from the family member of a Craiglee resident;
- Review payroll on February 7, 2011 for approval;
- Various correspondence on February 7, 2011 with Mr. William Anderson of Blaney McMurtry LLP ("Blaneys") regarding an Ontario Human Rights Tribunal decision and issues related thereto;
- Respond on February 8, 2011 to an inquiry from Ms. Gallant regarding the letter of intent ("LOI") accepted by the Receiver;
- Correspondence on February 8, 2011 with Extendicare (Canada) Inc. ("Extendicare") regarding the proposed lease terms for telephone equipment;
- Correspondence on February 9, 2011 with First National regarding property taxes;
- Review on February 10, 2011 of correspondence from Mr. Peter Vanderkloet of Extendicare regarding a human rights complaint and an occupational health and safety complaint filed by a former Craiglee employee and forward same to Mr. Anderson;

Craiglee Nursing Home Limited - Receivership

March 23, 2011

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- Review on February 14, 2011 of e-mail correspondence from Mr. Scott Tracze of Service Employees International Union, prepare reply, telephone call with Mr. Paul Tuttle of Extendicare regarding same, finalize and send e-mail to Mr. Tracze;
- Review on February 15, 2011 of a MOH inspection report for Craiglee;
- Preparation on February 15, 16 and 17, 2011 of schedules for the Agreement of Purchase and Sale ("APS") and forward to Blaneys;
- Correspondence on February 16, 2011 with First National regarding property tax payments;
- Review and respond on February 17, 2011 to correspondence with Ms. Gallant regarding new resident admissions;
- Exchange of e-mails on February 17, 2011 with Extendicare regarding a proposed employee meeting;
- E-mail correspondence on February 18, 2011 to Mr. Tracze regarding a proposed employee meeting;
- Review of correspondence on February 18, 2011 forwarded by Blaney's regarding the Receiver's motion record;
- Review and respond on February 18, 2011 to correspondence from Mr. Anderson regarding proposed submissions to the Ontario Human Rights Tribunal;
- Review on February 18, 2011 of correspondence from Extendicare regarding the proposed new telephone system;
- Review payroll on February 22, 2011 and provide approval to Extendicare;
- Review on February 22, 2011 of weekly census report;
- Correspondence on February 23, 2011 with Blaney's regarding status of preparation of the APS;
- Preparation on February 23, 2011 of cash flow funding and forward to Extendicare;
- Preparation on February 24, 2011 of a reply to a question posed by Ms. Gallant;
- Discussion on February 24, 2011 with Mr. Eric Golden of Blaney's regarding status of the APS;
- Discussion on February 24, 2011 with Mr. Martin regarding status of various issues and forward weekly census and December reporting package;
- Correspondence on February 24, 2011 to Ms. Angie Heinz of Craiglee regarding occupancy matters and lease of a new telephone system;
- Preparation on February 25, 2011 of information for the APS;

Craiglee Nursing Home Limited - Receivership

March 23, 2011

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- Review on February 28, 2011 of correspondence from Mr. Jensen regarding listing agreement extension and forward same to Mr. Martin;
- Various correspondence and discussion on February 28, 2011 with Ms. Heinz and Mr. Rotman regarding proposed lease of telephone equipment; and
- To all other administrative matters with respect to the receivership administration, including all meetings, telephone attendances, execution and approval of disbursements, written and verbal correspondence to facilitate the foregoing.



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A summary of hours and rates is as follows:

Staff	Hours	Hourly Rates	Total Fees
Daniel R. Weisz, CA•CIRP, CIRP, Senior Vice President	1.8	\$575.00	\$1,035.00
Hartley Bricks, MBA, CA•CIRP, Vice President	19.0	480.00	9,120.00
James Cook Manager	0.4	385.00	154.00
Alison Brown, Analyst	0.4	140.00	56.00
Rose Brown, Estate Administrator	<u>0.4</u>	140.00	<u>56.00</u>
Total Hours	<u>22.0</u>		
		Our Fee	\$10,421.00
		HST @ 13%	1,354.73
		Amount Payable	\$11,775.73

Payable upon receipt to Deloitte & Touche Inc.



Daniel R. Weisz, CA•CIRP, CIRP  
Senior Vice President  
#535802

## Private and Confidential

Craiglee Nursing Home Limited  
c/o Deloitte & Touche Inc.  
181 Bay Street, Suite 1400  
Toronto, Ontario  
M5J 2V1

Date: April 19, 2011  
Invoice No: 2819694  
Client/Mandate No: 741075.5600598  
Billing Partner: Daniel R. Weisz

HST Registration No: 133245290

## Invoice #19

### REGARDING Craiglee Nursing Home Limited ("Craiglee" or the "Company") - Receivership

To professional services rendered in connection with the appointment of Deloitte & Touche Inc. as Court-appointed Interim Receiver and Receiver and Manager ("Receiver") of Craiglee for the period March 1, 2011 to March 31, 2011:

- Exchange e-mails on March 1, 2011 with Extendicare (Canada) Inc. ("Extendicare") regarding the status of a meeting of Craiglee employees;
- Preparation on March 1, 2011 of a draft Agreement of Purchase and Sale ("APS");
- Review on March 1, 2011 of submissions concerning a human rights complaint involving a Craiglee employee;
- Continued preparation on March 2, 2011 of the APS;
- Correspondence on March 2, 2011 with Mr. Steven Martin of Desjardins Financial Security Life Assurance Company ("Desjardins") regarding the status of the APS;
- Correspondence on March 2, 2011 with Mr. Eric Golden of Blaney McMurtry LLP ("Blaneys") regarding the status of schedules to the APS;
- Review on March 2, 2011 of a lease contract and discussion with a representative from Easylease regarding same;
- Discussion on March 2, 2011 with Ms. Angie Heinz of Craiglee regarding lease matters and employee related matters;
- Review on March 3, 2011 of correspondence from Ms. Celia

Craiglee Nursing Home Limited - Receivership

April 19, 2011

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McDougall and draft response to same; subsequent correspondence with Mr. Golden regarding response to Ms. McDougall;

- Correspondence on March 3, 2011 with Ms. Alyson Dalton of First National Financial LP regarding Craiglee's property tax bill and roll numbers;
- Review on March 4, 2011 of correspondence from Ms. Sonia Cardoso of Craiglee regarding a quote to repair a basement leak;
- Discussion on March 7, 2011 with Mr. Gary Loder of Extendicare regarding a Resident Support Fund and the status of the sale process;
- Prepare on March 8, 2011 the Report of the Receiver pursuant to section 246(2) of the Bankruptcy and Insolvency Act;
- Review on March 8, 2011 of schedules provided by Mr. Golden and revise APS for same;
- Prepare on March 8, 2011 the monthly cash flow funding as requested by Extendicare;
- Further revisions on March 9, 2011 to the APS and forward same to the purchaser's legal counsel;
- Discussion on March 9, 2011 with Ms. Heinz regarding Craiglee's telephone system and other employee matters;
- Review on March 9, 2011 of correspondence to the Central East Local Health Integration Network regarding a status update on Craiglee;
- Discussion on March 11, 2011 with Ms. Heinz regarding a letter a letter received from a family member of a Craiglee resident;
- Review and respond on March 11, 2011 to correspondence from Mr. Martin regarding the status of the APS and other matters; subsequent telephone discussion with Mr. Martin regarding same;
- Discussion on March 11, 2011 with Ms. Heinz regarding the status of various operational matters;
- Discussion on March 14, 2011 with Mr. Martin regarding real estate commissions;
- Discussion on March 14, 2011 with Ms. Heinz regarding the status of various matters;
- Review on March 14, 2011 of the weekly census report and provide same to Mr. Martin;
- Correspondence on March 14, 2011 with Ms. Dalton regarding a status update on Craiglee;
- Review on March 15, 2011 of a response to a claim filed under the Occupational Health and Safety Act and forward a copy of the receivership order to Mr. William Anderson at Blaneys;
- Review and respond on March 15, 2011 to correspondence from

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Canada Mortgage and Housing Corporation ("CMHC") regarding potential surplus/deficit by the closing date;

- Review and execute employee letters on March 16, 2011;
- Prepare correspondence on March 16, 2011 to respond to a family member of a Craiglee resident;
- Review on March 18, 2011 e-mail correspondence from Mr. Golden regarding the purchaser's comments on the APS;
- Correspondence on March 21, 2011 to Mr. John Jensen of John A. Jensen Realty Inc. regarding requesting a due diligence requirement list from the purchaser;
- Review on March 21, 2011 the weekly census report and provide same to Mr. Martin;
- Discussion on March 21, 2011 with Mr. Martin regarding the status of the APS and leave a voice message with Mr. Golden regarding same;
- Discussion on March 21, 2011 with Ms. Heinz regarding the status of various matters and coordination of a meeting with Extendicare to discuss the 2011 budget for Craiglee;
- Review and respond on March 22, 2011 to questions from the purchaser regarding the nursing home licence;
- Review budget on March 22, 2011 and attend a meeting with Mr. Abdul Machher and Ms. Sharon Gilmour of Extendicare and Ms. Heinz to discuss same and tour facility;
- Correspondence on March 23, 2011 with Extendicare regarding budget matters;
- Review and respond on March 23, 2011 to correspondence from Mr. Eamonn O'Rafferty of CMHC regarding the status of the sales process and management fees;
- Review and edit on March 23, 2011 of a draft response to a letter from a relative of a Craiglee resident;
- Correspondence on March 24, 2011 with Mr. Martin regarding CMHC matters;
- Correspondence on March 24, 2011 with Extendicare regarding Ministry of Health and Long Term Care ("MOH") funding;
- Review e-mail correspondence on March 24, 2011 from Ms. Heinz regarding a resident issue;
- Review on March 25, 2011 of correspondence from Mr. Golden, revise APS and forward to the purchaser;
- Review on March 28, 2011 of the weekly census report and provide same to Mr. Martin;
- Review and prepare on March 29 and 30, 2011 due diligence

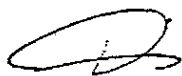
information for the purchaser;

- Prepare on March 30, 2011 final changes to the APS and forward to Mr. Golden;
- Prepare due diligence information list on March 31, 2011 and forward to Extendicare; and
- To all other administrative matters with respect to the receivership administration, including all meetings, telephone attendances, execution and approval of disbursements, written and verbal correspondence to facilitate the foregoing.

**A summary of hours and rates is as follows:**

Staff	Hours	Hourly Rates	Total Fees
Daniel R. Weisz, CA•CIRP, CIRP, Senior Vice President	4.2	\$575.00	\$2,415.00
Hartley Bricks, MBA, CA•CIRP, Vice President	41.0	480.00	19,680.00
Rose Brown, Estate Administrator	<u>1.4</u>	140.00	<u>196.00</u>
<b>Total Hours</b>	<u><b>46.6</b></u>		
		Our Fee	\$22,291.00
		HST @ 13%	2,897.83
		<b>Amount Payable</b>	<b>\$25,188.83</b>

Payable upon receipt to Deloitte & Touche Inc.



Daniel R. Weisz, CA•CIRP, CIRP  
Senior Vice President  
#536407



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

Tel: 416-601-6150  
Fax: 416-601-6690  
www.deloitte.ca

000299

**Private and Confidential**

Craiglee Nursing Home Limited  
c/o Deloitte & Touche Inc.  
181 Bay Street, Suite 1400  
Toronto, Ontario  
M5J 2V1

Date: May 26, 2011  
Invoice No: 2867348  
Client/Mandate No: 741075.5600598  
Billing Partner: Daniel R. Weisz

HST Registration No: 133245290

## Invoice #20

**REGARDING Craiglee Nursing Home Limited ("Craiglee" or the "Company") - Receivership**

To professional services rendered in connection with the appointment of Deloitte & Touche Inc. as Court-appointed Interim Receiver and Receiver and Manager ("Receiver") of Craiglee for the period April 1, 2011 to April 30, 2011:

- Prepare correspondence on April 1, 2011 to Scotiabank regarding mortgage payment for 9 Vanbrugh Ave.;
- Correspondence on April 1, 2011 with Mr. John Jensen of John A. Jensen Realty Inc. regarding due diligence materials and commence compiling same;
- Correspondence on April 1, 2011 with Extendicare (Canada) Inc. ("Extendicare") and Mr. Eric Golden of Blaney McMurtry LLP ("Blanleys") regarding an overpayment on water charges;
- Review on April 1, 2011 of documents involving a Human Rights Complaint by a former Craiglee employee;
- Review and sign on April 4, 2011 the Agreement of Purchase and Sale ("APS");
- Review on April 4, 2011 of weekly census results and forward same to Mr. Steven Martin of Desjardins Financial Security Life Assurance Company ("Desjardins");
- Review correspondence on April 4, 2011 from Mr. Golden regarding the APS;
- Review on April 4, 2011 of correspondence from a family member of a Craiglee resident and discuss same with Ms. Angie Heinz of Craiglee;

000300

- Review on April 4, 2011 of correspondence from Bell Canada and forward same to Craiglee;
- Discussion on April 4, 2011 with Mr. Martin regarding the status of various matters and provide copies of Ministry of Health correspondence regarding funding clawbacks;
- Review of April 5, 2011 of benefits renewal information and provide Extendicare with approval to renew same;
- Correspondence on April 5, 2011 with Mr. Golden regarding the water charge overpayment issue;
- Correspondence on April 5, 2011 with Mr. Jensen regarding due diligence materials;
- Review on April 6, 2011 of a Human Rights Tribunal Case Assessment Direction involving a Human Rights Complaint made by a Craiglee employee;
- Review on April 6, 2011 of the monthly reporting package for February 2011 as prepared by Extendicare;
- Review correspondence on April 7, 2011 from Mr. Golden regarding key dates for the APS;
- Correspondence on April 8, 2011 with Ms. Ritva Gallant of the Central East LHIN regarding a status update on Craiglee;
- Review on April 12, 2011 of the plaintiff's submission concerning a Human Rights Complaint;
- Correspondence on April 13, 2011 with Mr. Eamonn O'Rafferty of Canada Mortgage and Housing Corporation ("CMHC") regarding an update on the status of the facility and the sale process;
- Review on April 13, 2011 of weekly census report for Craiglee and forward same to Mr. Martin;
- Correspondence on April 14, 2011 with Mr. Golden regarding the status of various matters;
- Review on April 14, 2011 of a summary update of activity at Craiglee prepared by Ms. Heinz and forward same along with a sale update to Ms. Gallant;
- Correspondence on April 15, 2011 with Ms. Heinz regarding employee matters;
- Review on April 18, 2011 the weekly census report and provide same to Mr. Martin;
- Correspondence on April 18, 2011 with Ms. Emily Van de Klippe of the Central East LHIN regarding the status of the sale process;
- Discussion on April 18, 2011 with Mr. Jensen regarding the status of the purchaser's due diligence and arranging a site tour;
- Discussion on April 19, 2011 with Ms. Heinz regarding the status of various matters;

- Discussion on April 19, 2011 with Mr. O'Rafferty regarding the status of the sale process and provide copies of various documents;
- Review on April 19, 2011 various authorizations in relation to the purchaser's due diligence and execute same;
- Correspondence on April 19, 2011 with Diversicare regarding cash flow funding for operations;
- Compile on April 21, 2011 various documents for the purchaser's due diligence;
- Correspondence on April 25, 2011 with Extendicare regarding the status of compilation of materials for the purchaser's due diligence;
- Discussion on April 25, 2011 with Ms. Heinz regarding the status of various issues at Craiglee;
- Discussion on April 26, 2011 with Ms. Rosalind Brenneman of Frontier Engineering regarding a proposal to prepare a Phase I Environmental Site Assessment Report;
- Compile on April 27, 2011 various documents for the purchaser's due diligence;
- Correspondence on April 27, 2011 with Extendicare regarding year-end adjustments;
- Correspondence on April 27, 2011 with Ms. Celia McDougall;
- Correspondence on April 27, 2011 with Mr. Jensen regarding the status of compilation of materials for the purchaser's due diligence;
- Compile on April 28, 2011 various documents for the purchaser's due diligence;
- Correspondence on April 28, 2011 with Ms. Heinz regarding employee matters at Craiglee;
- Finalize on April 29, 2011 the compilation of due diligence materials requested by the purchaser and forward same;
- Correspondence on April 29, 2011 with Extendicare regarding a cash flow forecast;
- Review of files and accumulate information requested by the purchaser for its due diligence process; and
- To all other administrative matters with respect to the receivership administration, including all meetings, telephone attendances, execution and approval of disbursements, written and verbal correspondence to facilitate the foregoing.



000302

A summary of hours and rates is as follows:

Staff	Hours	Hourly Rates	Total Fees
Daniel R. Weisz, CA•CIRP, CIRP, Senior Vice President	2.2	\$575.00	\$1,265.00
Hartley Bricks, MBA, CA•CIRP, Vice President	33.5	480.00	16,080.00
Anna Koroneos, Senior Consultant	0.6	275.00	165.00
Rose Brown, Estate Administrator	<u>1.5</u>	140.00	<u>210.00</u>
Total Hours	<u>37.8</u>		
		Our Fee	\$17,720.00
		HST @ 13%	2,303.60
		Amount Payable	\$20,023.60

Payable upon receipt to Deloitte & Touche Inc.



Daniel R. Weisz, CA•CIRP, CIRP  
Senior Vice President  
#538030

## Private and Confidential

Craiglee Nursing Home Limited  
c/o Deloitte & Touche Inc.  
181 Bay Street, Suite 1400  
Toronto, Ontario  
M5J 2V1

Date: July 15, 2011  
Invoice No: 2896052  
Client/Mandate No: 741075.5600598  
Billing Partner: Daniel R. Weisz  
HST Registration No: 133245290

## Invoice #21

REGARDING Craiglee Nursing Home Limited ("Craiglee" or the  
"Company") - Receivership

To professional services rendered in connection with the appointment  
of Deloitte & Touche Inc. as Court-appointed Interim Receiver and  
Receiver and Manager ("Receiver") of Craiglee for the period  
May 1, 2011 to May 31, 2011:

- Review on May 2, 2011 of weekly census results and forward same to Mr. Steven Martin of Desjardins Financial Security Life Assurance Company ("Desjardins");
- Correspondence on May 2, 2011 with Frontier Engineering regarding arranging access to conduct its Phase I Environmental Site Assessment ("Phase I") of Craiglee;
- Discussion on May 3, 2011 with Mr. John Jensen of John A. Jensen Realty Inc. regarding the status of the purchaser's due diligence and properties listed under Appendix B of the Agreement of Purchase and Sale ("APS"), review of survey and forward same to Mr. Jensen;
- Review and execute correspondence on May 4, 2011 regarding the APS;
- Discussion on May 4, 2011 with Ms. Angie Heinz of Craiglee regarding various operational matters;
- Discussion on May 4, 2011 with Mr. Jensen regarding the status of the purchaser's due diligence review;
- Review on May 5, 2011 of the operating report for March 2011 prepared by Extendicare (Canada) Inc. ("Extendicare") and forward same to Mr. Martin and Mr. Jensen;

- Correspondence on May 5, 2011 with Mr. Jeff Rhineland of Extendicare regarding union matters;
- Correspondence on May 6, 2011 with Ms. Angie Heinz regarding occupancy and employee matters;
- Review on May 9, 2011 of weekly census results and forward same to Mr. Martin;
- Correspondence on May 9, 2011 with Mr. Martin regarding outstanding accounts receivable;
- Review of correspondence on May 9, 2011 from the Ministry of Health and Long-Term Care regarding a family member of a former Craiglee resident;
- Discussion on May 11, 2011 with Ms. Heinz regarding the status of various matters;
- Correspondence on May 11, 2011 with Mr. Eamonn O'Rafferty of Canada Mortgage and Housing Corporation ("CMHC") and forward monthly operating reports;
- Review on May 12, 2011 of an information request from the purchaser as provided by Mr. Jensen, forward same to Extendicare for compilation and review of information subsequently provided by Extendicare;
- Review on May 13, 2011 of the budget for 2011 and correspondence with Extendicare and Ms. Heinz regarding same;
- Review on May 13, 2011 of correspondence from a family member regarding access to the facility;
- Discussion on May 13, 2011 with Ms. Heinz regarding the status of various matters;
- Review on May 13, 2011 of materials concerning a Human Rights complaint and discuss same with Mr. Peter Vanderkloet, Extendicare counsel;
- Review on May 16, 2011 of a request for due diligence materials and prepare same for the purchaser;
- Correspondence on May 16, 2011 with Mr. Eric Golden of Blaney McMurtry LLP ("Blaneys") regarding the APS;
- Correspondence on May 17, 2011 with Mr. Vanderkloet regarding the Human Rights complaint;
- Review on May 17, 2011 of due diligence information prepared by Extendicare and forward same to Mr. Jensen;
- Review on May 19, 2011 of correspondence from Mr. Jensen regarding a request by the purchaser to extend due diligence period and preparation of correspondence to Mr. Martin regarding same;
- Review on May 19, 2011 of the Phase I report and forward same to

Mr. Jensen:

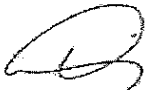
- Discussion on May 24, 2011 with Ms. Heinz regarding the status of various matters;
- Review on May 24, 2011 of the Purchaser Certificate regarding WSIB and forward same to Mr. Jensen;
- Review on May 24, 2011 of Human Rights Complaint filings and discuss same with Mr. William Anderson of Blaneys;
- Correspondence on May 24, 2011 with Ms. Heinz regarding operational matters;
- Review of HR complaint filings on May 26, 2011;
- Correspondence on May 26, 2011 with Mr. Golden regarding a City of Toronto (the "City") water bill issue;
- Correspondence on May 26, 2011 with Ms. Heinz regarding operational matters;
- Review on May 27, 2011 of correspondence from Mr. Golden regarding the City of Toronto water bill issue;
- Correspondence on May 31, 2011 with Mr. Jensen regarding the status of due diligence materials;
- Review on May 31, 2011 of materials provided by Extendicare and forward same to Mr. Jensen;
- Respond on May 31, 2011 to the purchaser's question regarding union matters; and
- To all other administrative matters with respect to the receivership administration, including all meetings, telephone attendances, execution and approval of disbursements, written and verbal correspondence to facilitate the foregoing.

000306

A summary of hours and rates is as follows:

Staff	Hours	Hourly Rates	Total Fees
Daniel R. Weisz, CA•CIRP, CIRP, Senior Vice President	0.5	\$575.00	\$287.50
Hartley Bricks, MBA, CA•CIRP, Vice President	21.1	480.00	10,128.00
James Cook, Manager	0.1	385.00	38.50
Rose Brown, Estate Administrator	<u>0.8</u>	140.00	<u>112.00</u>
Total Hours	<u>22.5</u>		
		Our Fee	\$10,566.00
		HST @ 13%	1,373.58
		Amount Payable	\$11,939.58

Payable upon receipt to Deloitte & Touche Inc.



Daniel R. Weisz, CA•CIRP, CIRP  
Senior Vice President  
#539045

- Review on June 7, 2011 and respond to correspondence from Mr. Jensen regarding various due diligence questions posed by the purchaser;
- Prepare on June 8, 2011 various due diligence materials as requested by the purchaser;
- Discussion on June 8, 2011 with Ms. Heinz regarding employee matters;
- Review and respond on June 9, 2011 to various correspondence received from Mr. Jensen regarding due diligence materials;
- Discussion on June 10, 2011 with Ms. Heinz regarding the status of various matters;
- Prepare on June 13, 2011 due diligence materials requested by the purchaser;
- Review on June 13, 2011 of a response to the Human Rights Tribunal prepared by Mr. Anderson and provide comments on same;
- Discussion on June 14, 2011 with Mr. Eric Golden of Blaneys regarding the amending agreement, Ministry of Health and Long-Term Care ("MOH") arrears and utilities;
- Review and execute Amending Agreement #1 on June 14, 2011;
- Review on June 14, 2011 of correspondence from Mr. Jensen regarding information requested by the purchaser and forward portions of the request to Extendicare and the Craiglee administrator, and respond to Mr. Jensen;
- Review and respond on June 15, 2011 to a request from Mr. Jensen for certain due diligence materials;
- Discussion on June 16, 2011 with Mr. Golden regarding the status of the receivership and review of information provided by Mr. Golden and potential motion dates;
- Correspondence on June 17, 2011 regarding arranging a site visit by the purchaser;
- Correspondence on June 17, 2011 to Mr. Jensen regarding due diligence information requested by the purchaser;
- Review on June 20, 2011 of weekly census results and forward same to Mr. Martin;
- Review on June 20, 2011 of due diligence information requested by Mr. Jensen and respond to same;
- Correspondence on June 21, 2011 with Ms. Alyson Dalton of First National Financial LP regarding obtaining a copy of the property tax bill for 2011;
- Correspondence on June 22, 2011 with Mr. William MacLarkey of the Ministry of the Attorney General ("Ministry") regarding the

status of the receivership and the Receiver's proposed motion for sale approval;


- Discussion on June 22, 2011 with Ms. Heinz regarding the status of various matters;
- Review correspondence on June 23, 2011 from Mr. Leonard Marsello of the Ministry regarding information in connection with the pending sale of Craiglee;
- Discussion on June 24, 2011 with Mr. Golden regarding the Ministry and upcoming call with the Ministry;
- Prepare for and attend on June 24, 2011 a conference call with Mr. Marsello regarding the pending sale of Craiglee and preparation of correspondence to Mr. Golden in respect of same;
- Review on June 24, 2011 of correspondence from Mr. Jensen requesting various information on behalf of the purchaser, forward same to Extendicare and Ms. Heinz, and provide response to Mr. Jensen;
- Correspondence on June 27, 2011 with Mr. Jensen regarding the purchaser's request to engage Altus Group to prepare an appraisal of Craiglee;
- Correspondence on June 28, 2011 with Mr. Jensen regarding the purchaser's request to retain Altus Group to prepare an appraisal;
- Discussion on June 28, 2011 with Mr. Sean McCrorie of Altus Group regarding possible conflict of interest issues;
- Correspondence on June 28, 2011 with Mr. Larry Doraty of Canada Mortgage and Housing Corporation ("CMHC") and Mr. Martin regarding Altus Group being engaged by the purchaser to conduct an appraisal; subsequent discussion with Mr. Jensen regarding same;
- Review and forward on June 28, 2011 of various due diligence information;
- Correspondence on June 29, 2011 with the purchaser regarding the Altus Group conflict of interest issue and subsequent correspondence to Altus Group;
- Correspondence on June 30, 2011 with Extendicare regarding a cash flow funding request;
- Review and respond on June 30, 2011 to due diligence questions from the purchaser; and
- To all other administrative matters with respect to the receivership administration, including all meetings, telephone attendances, execution and approval of disbursements, written and verbal correspondence to facilitate the foregoing.

000310

A summary of hours and rates is as follows:

Staff	Hours	Hourly Rates	Total Fees
Daniel R. Weisz, CA•CIRP, CIRP, Senior Vice President	1.9	\$575.00	\$1,092.50
Hartley Bricks, MBA, CA•CIRP, Vice President	25.4	480.00	12,192.00
Rose Brown, Estate Administrator	<u>0.2</u>	140.00	<u>28.00</u>
Total Hours	<u>27.5</u>		
		Our Fee	\$13,312.50
		HST @ 13%	1,730.63
		Amount Payable	\$15,043.13

Payable upon receipt to Deloitte & Touche Inc.



Daniel R. Weisz, CA•CIRP, CIRP  
Senior Vice President  
#340629



## Private and Confidential

Craiglee Nursing Home Limited  
c/o Deloitte & Touche Inc.  
181 Bay Street, Suite 1400  
Toronto, Ontario  
M5J 2V1

Date: September 1, 2011  
Invoice No: 2919769  
Client/Mandate No: 741075.5600598  
Billing Partner: Daniel R. Weisz

HST Registration No: 133245290

## Invoice #23

**REGARDING Craiglee Nursing Home Limited ("Craiglee" or the "Company") - Receivership**

**To professional services rendered in connection with the appointment of Deloitte & Touche Inc. as Court-appointed Interim Receiver and Receiver and Manager ("Receiver") of Craiglee for the period July 1, 2011 to July 31, 2011:**

Date	Description
7/4/2011	Review of weekly census report and forward same to Mr. Steven Martin of Desjardins Financial Security Life Assurance Company ("Desjardins").
7/4/2011	Review and respond to due diligence questions from the Purchaser.
7/5/2011	Various discussions with Ms. Angie Heinz of Craiglee regarding operational matters.
7/5/2011	Correspondence with Mr. John Jensen of John A. Jensen Realty Inc. regarding a request from the purchaser for various information and respond to same.
7/8/2011	Correspondence with Mr. Martin regarding the status of the Purchaser's due diligence.
7/8/2011	Review correspondence from Mr. Jensen regarding the Purchaser's request for a meeting with the Receiver and coordinate the meeting.
7/8/2011	Discussion with Mr. Abdul Machher of Extendicare regarding variances from budget.
7/11/2011	Review of weekly census report and forward same to Mr. Martin.
7/11/2011	Discussion with Mr. Jensen regarding status of due diligence information.
7/11/2011	Correspondence with Mr. Martin regarding an update on the Purchaser's due diligence and the Purchaser's request for a meeting with the Receiver.
7/12/2011	Review of May 2011 operating results and discussion with Ms. Heinz and Mr. Machher regarding explanations for variances; prepare correspondence to the Purchaser regarding same.
7/13/2011	Further discussion with Ms. Heinz regarding variance explanations and prepare correspondence regarding same;
7/13/2011	Discussion with Mr. Jensen regarding the Purchaser's request to delay the meeting with the Receiver and extend the due diligence period.
7/14/2011	Further discussion with Mr. Jensen regarding the Purchaser's request for an extension of the due diligence period.


Date	Description
7/15/2011	Review and sign Amending Agreement to Agreement of Purchase and Sale to extend the due diligence period.
7/15/2011	Finalize correspondence to the Purchaser regarding variances and forward to Mr. Jensen.
7/18/2011	Correspondence with Mr. Howard Render of Render & Partners LLP regarding a quote to perform the 2010 audit for Craiglee.
7/20/2011	Telephone conversation with Ms. Crenshaw of Canada Revenue Agency ("CRA") regarding status of meeting that was scheduled to be held with the Purchaser; correspondence with Mr. Jensen regarding rescheduling meeting with the Purchaser.
7/22/2011	Review letters of employment and sign; review draft termination letter, update and sign; review tax bill and sign cheque.
7/25/2011	Communicate with the Purchaser regarding change of meeting date, review e-mail from Ms. Sonia Cardoso of Craiglee regarding patient in arrears, and discuss same with Ms. Cardoso.
7/26/2011	Telephone conversation with Ms. Heinz regarding status of the cooling units and the residents.
7/27/2011	Review e-mail from Ms. Cardoso regarding arrears from a resident and subsequent telephone call with Mr. Eric Golden of Blaney McMurtry LLP regarding same; e-mail to Ms. Heinz regarding information requested by the Purchaser.
7/28/2011	Exchange e-mails with Mr. Golden regarding resident in account arrears and correspondence with Ms. Cardoso regarding same; e-mail correspondence regarding information requested by the Purchaser; e-mail to Mr. Machner of Extendicare regarding information requested by the Purchaser.
7/29/2011	Correspondence with Mr. Jensen regarding further information on variances from budget.
	To all other administrative matters with respect to the receivership administration, including all meetings, telephone attendances, execution and approval of disbursements, written and verbal correspondence to facilitate the foregoing.

000313

**A summary of hours and rates is as follows:**

Staff	Hours	Hourly Rates	Total Fees
Daniel R. Weisz, CA•CIRP, CIRP, Senior Vice President	5.2	\$575.00	\$2,990.00
Hartley Bricks, MBA, CA•CIRP, Vice President	12.3	480.00	5,904.00
Rose Brown, Estate Administrator	0.7	140.00	<u>98.00</u>
<b>Total Hours</b>	<b><u>18.2</u></b>		
		Our Fee	\$8,992.00
		HST @ 13%	1,168.96
<b>Amount Payable</b>			<b>\$10,160.96</b>

Payable upon receipt to Deloitte & Touche Inc.

  
Daniel R. Weisz, CA•CIRP, CIRP  
Senior Vice President  
#541456

# TAB 4

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

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

BETWEEN:

DESJARDINS FINANCIAL SECURITY LIFE  
ASSURANCE COMPANY

Applicant

- and -

CRAIGLEE NURSING HOME LIMITED

Respondent

AFFIDAVIT OF CHAD KOPACH

I, **CHAD KOPACH**, of the City of Toronto, in the Province of Ontario, **MAKE OATH**  
**AND SAY AS FOLLOWS:**

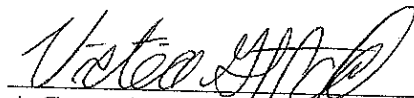
1. I am a partner with Blaney McMurtry LLP ("**Blaneys**"), counsel for the Applicant, Desjardins Financial Security Life Assurance Company ("**Desjardins**"). As such, I have knowledge of the matters hereinafter deposed to except where stated to be on information and belief, and where so stated I verily believe it to be true.

2. Pursuant to an Order of the Honourable Mr. Justice Campbell dated April 28, 2009, Deloitte & Touche Inc. was appointed as Interim Receiver and Receiver and Manager of Craiglee Nursing Limited ("**Craiglee**"). Blaneys has provided services and incurred disbursements in relation to the receivership of Craiglee (the "**Receivership**") for the period from July 1, 2010 to and including September 30, 2011 as described in the Legal Costs Summary attached hereto and marked as **Exhibit "A"**, and the detailed accounts rendered by Blaneys, all of which are attached hereto and marked as **Exhibits "B" to "O"** (the "**Blaneys Accounts**").
3. Exhibits "B" to "O", inclusive, to this affidavit are copies of the accounts rendered by Blaneys to Desjardins for legal fees and disbursements dated August 19, August 31, September 30, October 31 and December 13, 2010 and January 31, February 28, March 31, April 30, May 31, June 30, July 31, August 31, and September 30, 2011.
4. Based on my review of the Blaneys Accounts and my personal knowledge of this matter, the Blaneys Accounts represent a fair and accurate description of the services provided and the amounts charged by Blaneys.
5. A total of approximately 159 hours were expended by Eric Golden, William Anderson, Chris McClelland, Shawn Wolfson, Roman Pekaruk, Brett Tkatch, and various law clerks and students during the period noted above in performing legal services relating to the Receivership.
6. I verily believe that the hourly billing rates, outlined in detail in the Blaneys Accounts, are in the range of normal average hourly rates charged by legal counsel for services

rendered in relation to engagements similar to Blaneys' engagement as counsel for Desjardins.

7. I swear this Affidavit in support of a motion for, among other things, approval of Blaneys' fees and disbursements and for no other or improper purpose.

**SWORN BEFORE ME** at  
the City of Toronto,  
in the Province of Ontario,  
this 3<sup>rd</sup> day of November, 2011

  
A Commissioner for Taking Affidavits

  
CHAD KOPACH

Victoria Lois Gifford, a Commissioner, etc.,  
Province of Ontario, for Blaney McMurtry LLP,  
Barristers and Solicitors.  
Expires September 1, 2014.























































































































































**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**

**MOTION RECORD**

Returnable November 9, 2011

**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