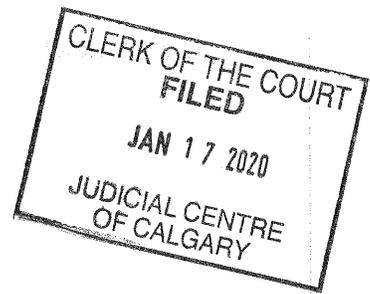


COURT FILE NUMBER 1901-10871  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY  
APPLICANT THE BANK OF MONTREAL  
RESPONDENT UWAMS SUPPORTIVE LIVING LTD., MAXWELL UWAGA and CAROL UWAGA



DOCUMENT **NOTICE OF APPLICATION**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
Cassels Brock & Blackwell LLP  
Suite 3810, Bankers Hall West  
888 3<sup>rd</sup> Street SW  
Calgary, Alberta, T2P 5C5  
Telephone 403-351-2921  
Facsimile 403-648-1151

File No. 33336-389

**Attention: Jeffrey Oliver**

**NOTICE TO RESPONDENTS:**

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the judge.

To do so, you must be in Court when the application is heard as shown below:

Date: Thursday, January 23, 2020

Time: 10:00 AM

Where: Calgary Law Courts

Before Whom: The Honourable Mr. Justice C.M. Jones

Go to the end of this document to see what you can do and when you must do it.

**Remedy claimed or sought:**

1. An Order:

- (a) if necessary, abridging the time for service of this Application and supporting materials, to the time actually given and deeming service of notice of this Application and supporting materials good and sufficient;
- (b) appointing Deloitte Restructuring Inc. as receiver over all of the current and future assets, undertakings and properties of UWAMS Supportive Living Ltd., pursuant to a Consent Receivership Order substantially in the form attached hereto as Schedule "A";
- (c) awarding costs of this Application on a solicitor and client basis; and
- (d) granting such further and other relief, advice and directions as counsel may advise and this Honourable Court may deem just and appropriate.

**Grounds for making this application:**

The Facility

- 2. On August 6, 2015, the Bank of Montreal ("**BMO**") provided a credit facility (the "**Facility**") in the total authorized amount of \$620,000 to the Debtor to assist with the construction and expansion of a property located in Calgary, Alberta and legally described as Plan 577 JK, Block 45, Lot 24, excepting thereout all mines and minerals (the "**Lands**"), which Lands were used by the Debtor to operate a supportive care facility (the "**Care Facility**").
- 3. On July 31, 2017, BMO increased the amount of the Facility to a total authorized amount of \$907,500, which amount included any previous draws already made.
- 4. The Facility is governed by a commitment letter dated August 5, 2015 and a commitment letter dated July 31, 2017 (collectively, the "**Commitment Letters**").
- 5. Pursuant to the Commitment Letters, BMO made certain advances to the Debtor. As of December 2, 2019, the total amount advanced by BMO to the Debtor that remained due, owing and unpaid is \$1,051,689.82, inclusive of interest and some legal fees up to December 2, 2019 but exclusive of fees, other chargeable costs and interest continuing to accrue (the "**Indebtedness**"), further particulars of which are as follows:

Principal Balance	\$961,486.76
Accrued Interest to December 2, 2019* (per diem \$255.93)	\$90,203.06
<hr/>	
Total Balance as at December 2, 2019	\$1,051,689.82

\*Interest rate is calculated at BMO's prime lending rate as established from time to time plus 5.00% per annum.

- 6. In accordance with the terms of the Commitment Letters, the Facility is payable in whole or in part on demand by BMO.

## The Security

7. The Facility was secured by, among other things, general security agreements signed by the Debtor, a joint and several guarantee in the limited amount of \$1,200,000 granted by Carol and Maxwell Uwaga (the "**Guarantors**"), and a collateral mortgage in the amount of \$1,200,000 registered against the Lands (collectively, the "**Security Documents**").
8. BMO's security interest created under the Security Documents was perfected through registrations with the Alberta Personal Property Registry and Alberta Land Titles, where appropriate. Further background regarding BMO's credit facilities and security is provided in the Application for the appointment of the Interim Receiver, filed on October 3, 2019.

## Forbearance Agreements, Demand Letters and Default Notices

### *First Forbearance Agreement*

9. On October 1, 2017, the Debtor, the Guarantors and BMO entered into a Restated Commitment Letter and Forbearance Agreement (the "**First Forbearance Agreement**") pursuant to which BMO agreed to forbear from enforcing its rights and remedies under the Commitment Letter and Security until the close of business on April 30, 2018 on the terms and conditions set out therein.

### *Demand Letters and Notice of Intention to Enforce Security*

10. On May 11, 2018, following the expiry of the First Forbearance Agreement, BMO sent a letter to the Debtor demanding repayment in full of the Indebtedness together with a notice of intention to enforce security.
11. On May 11, 2018, following the expiry of the First Forbearance Agreement, BMO sent a letter to the Guarantors demanding repayment of the Indebtedness pursuant to the Guarantee.

### *Second Forbearance*

12. On August 24, 2018, the Debtor, the Guarantors and BMO entered into a second Restated Credit and Forbearance Agreement (as amended, the "**Second Forbearance Agreement**") pursuant to which BMO agreed to forbear from enforcing its rights and remedies under the Commitment Letter and Security until April 30, 2019 on the terms and conditions set out therein.
13. The Debtor and the Guarantors defaulted under the terms of the Second Forbearance Agreement by (among other things) failing to effect the settlement of certain liens registered against the Lands on or before October 31, 2018.
14. As a result of the above noted default, on November 8, 2018, the Debtor, the Guarantors and BMO entered into an amending agreement to the Second Forbearance Agreement (the "**Amendment to the Second Forbearance Agreement**") pursuant to which BMO agreed to forbear from enforcing its rights and remedies under the Commitment Letter and Security until April 30, 2019 on the amended terms and conditions set out therein,

which included providing the Debtor until November 21, 2018 to effect the settlement of the liens registered against the Lands.

15. On or about January 24, 2019, BMO advanced additional funds in the amount of \$60,600 in order to effect the discharge of the liens from title to the Lands.
16. The forbearance period under the Second Forbearance Agreement expired on April 30, 2019.

#### *Additional Default Notices*

17. On January 31, 2019, counsel to BMO sent a letter to the Debtor and the Guarantors advising that additional defaults had occurred under the terms of the Second Forbearance Agreement.
18. On July 3, 2019, counsel to BMO sent a letter to the Debtor and Guarantors advising that additional events of default had occurred, and that BMO required a proposal from the Debtor on or before July 31, 2019 setting out a proposal for the repayment of the Facility on or before July 31, 2019.
19. On August 1, 2019, counsel to BMO sent a letter to counsel to the Debtor and the Guarantors advising that no proposal has been received by BMO as requested in the July 3, 2019 correspondence and that BMO had scheduled time on the Commercial List on August 16, 2019 at which time BMO intended to bring an application appoint a receiver over the assets, undertakings and properties of the Debtor.

#### Failure to Repay Indebtedness

20. The 10-day notice period under s. 244 of the *Bankruptcy and Insolvency Act* (Canada) expired on or about May 21, 2018.
21. Since the expiry of the Second Forbearance Agreement, BMO has received the following payments towards the Indebtedness.
  - (a) \$30,000 on July 30, 2019; and
  - (b) \$4,000 on October 30, 2019.
22. The Debtor and the Guarantors have failed to comply with the demand letters and, as of December 2, 2019, the total amount advanced by BMO to the Debtor that remains due, owing and unpaid is \$1,051,689.82, inclusive of interest and some legal fees up to December 2, 2019 but exclusive of fees, costs, expenses and interest continuing to accrue.

#### Other Indebtedness

23. In addition to the amounts due and owing under the Facility, there is a current unpaid tax account balance in the amount of \$8,047.02 relating to the Lands and the City of Calgary has registered a tax notification against title to the Lands (the "**Tax Notification**").

## Appointment of Interim Receiver

24. By application filed August 6, 2019, BMO sought the appointment of Deloitte as receiver over the Property of the Debtor. As described in the Second Affidavit of Trevor Bauer sworn August 14, 2019 and filed with the Court (the "**Second Bauer Affidavit**"), the application for the appointment of a receiver was modified to an application for the appointment of an interim receiver for the following reasons (among others):
- (a) BMO and Deloitte want to ensure that quality care to the residents of the Care Facility is maintained upon the potential appointment of a receiver and the resulting transition of management;
  - (b) Deloitte required additional information with respect to the Care Facility, the Debtor and its operations in order to satisfy itself that it will be able to deliver consistent quality care to residents of the Care Facility;
  - (c) an appointment as Interim Receiver will allow existing management of the Debtor to continue to operate the Care Facility (under the supervision of the Interim Receiver), which should minimize disruption to residents;
  - (d) the Interim Receiver will initially be in their role for 30 days, which will allow it time to review and understand the business of the Debtor and the Care Facility; and
  - (e) the initial 30-day period will allow the Debtor additional time in which to potentially find refinancing alternatives or other forms of solutions that may be acceptable to BMO.
25. On October 11, 2019, on application by BMO, this Honourable Court granted the Appointment Order.
26. Among other things, the Appointment Order:
- (a) appointed the Interim Receiver over the Property of the Debtor and declared a stay of proceedings against the Debtor and the Property;
  - (b) provided the Interim Receiver with certain powers to monitor the Debtor's business and the Property, but it did not authorize the Interim Receiver to operate, manage, or carry on the Debtor's business or employ any of the Debtor's employees;
  - (c) required that the Debtor and all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders (among others) assist the Interim Receiver in its efforts to understand any and all applicable requirements relating to the licensing and transfer or addition of residents into or out of the Debtor's care (the "**Transfer Requirements**"); and
  - (d) limits the Interim Receiver's appointment until the earliest of (i) the appointment of a receiver, (ii) the appointment of a trustee in bankruptcy, and (iii) 11:59 p.m. (MST) on November 10, 2019.

27. The inclusion of the section in the Appointment Order requiring the Debtor and its officers, directors and employees (among others) to assist the Interim Receiver in its efforts to understand the Transfer Requirements was an essential component of the Appointment Order as Deloitte has indicated that it is not comfortable accepting an appointment as receiver over the Property without a clear understanding of the Transfer Requirements so that Deloitte can ensure that quality care to the residents of the Care Facility is maintained upon the potential appointment of a receiver and the resulting transition of management.
28. Between the date of the Appointment Order and November 10, 2019, the Debtor and/or its officers and directors had only provided the Interim Receiver with a limited amount of information relating to the Transfer Requirements.

#### First Continuation of Interim Receiver

29. On November 8, 2019, on application by BMO as a secured creditor of the Debtor, this Honourable Court granted an Order (the "**First Continuation Order**"). The First Continuation Order, among other things:
  - (a) continued the Interim Receiver's appointment until the earliest of (i) the appointment of a receiver, (ii) the appointment of a trustee in bankruptcy, and (iii) 11:59 p.m. (MST) on December 10, 2019;
  - (b) ordered that on or before November 29, 2019, Maxwell Uwaga provide the Interim Receiver with a detailed plan for the transfer of all of the residents, parties, or other persons (collectively, the "**Residents**") under the care of the Debtor to appropriate alternate care facilities (the "**Plan**"); and
  - (c) authorized and empowered the Interim Receiver to engage in discussions with, and obtain information from, Alberta Health Services with respect to the process for having Residents transferred from the care of the Debtor to alternate care facilities.
30. Maxwell Uwaga provided the Interim Receiver with the Plan on November 29, 2019.

#### Second Continuation of the Interim Receivership

31. Prior to the expiration of the First Continuation Order, the Debtor advised BMO that they were working with West Grove Capital in order to try to obtain alternate financing to payout and replace BMO. As part of these efforts, the Debtor has requested that BMO refrain from applying to appoint a receiver until the week of January 20, 2020.
32. As a result of those discussions, the Debtor and BMO mutually agreed to further extend the appointment of the Interim Receiver until January 24, 2020, which agreement was reflected in an Order of the Honourable Mr. Justice Mah on December 10, 2019.
33. The Debtor and BMO also agreed that the Debtor was to provide to BMO a refinancing proposal by January 13, 2020, and if that proposal was not acceptable to BMO the Debtor would consent to the appointment of a Receiver.

34. Such proposal was delivered to BMO on January 13, 2020, and BMO rejected such proposal. As a result, BMO is seeking the appointment of a receiver.
35. It is just and equitable that a Receiver be appointed for the following reasons:
  - (a) the protection of the Debtor's estate and the protection of the interests of BMO, particularly in light of the Tax Notification, the Debtor's failure to make payments to BMO, the fact that the revenue generated from the Debtor's business is insufficient to meet arrears owing and/or ongoing payment obligations to BMO, and the Debtor's use of funds generated from the business being operated on the Lands to pay a mortgage held by Calvert Homes Mortgage, which mortgage is not registered against the Lands;
  - (b) current patient rental rates being charged by the Debtor are not sufficient to payout the Debtor's creditors in a timely manner and that there is no certainty that the subsidy being sought by the Debtor will be provided; and
  - (c) the need to ensure the continuation of quality care for the residents of the supportive care facility.
36. The Interim Receiver has consented to its appointment as Receiver, and has arranged to engage a duly qualified contractor to assist in ensuring that the quality of care for residents is not compromised.

**Material or evidence to be relied on:**

37. Statement of Claim, filed;
38. Affidavit of Trevor Bauer, filed August 12, 2019;
39. Second Affidavit of Trevor Bauer, filed August 16, 2019;
40. Third Affidavit of Trevor Bauer, filed October 3, 2019;
41. First Report of the Interim Receiver, filed October 31, 2019;
42. Second Report of the Interim Receiver, filed December 3, 2019;
43. Third Report of the Interim Receiver, to be filed.
44. The Consent to Act as Receiver executed by Deloitte Restructuring Inc. and
45. Such further and other materials as counsel may advise and this Honourable Court may permit.

**Applicable rules:**

- 46. The *Alberta Rules of Court*, including Rules 1.2, 1.3, 1.4, 6.1, 6.2, 6.3 and 6.47; and
- 47. Such further and other rules as counsel may advise and this Honourable Court may permit.

**Applicable Acts and regulations:**

- 48. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended, and in particular section 243 thereof;
- 49. *Judicature Act*, RSA 2000, c J-2, as amended, and in particular section 13(2) thereof; and
- 50. Such further and other acts and regulations as counsel may advise and this Honourable Court may permit.

**Any irregularity complained of or objection relied on:**

- 51. None.

**How the application is proposed to be heard or considered:**

- 52. In person.

**WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

Clerk's Stamp:

COURT FILE NUMBER 1901-10871

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE OF CALGARY

APPLICANT: THE BANK OF MONTREAL

RESPONDENTS: UWAMS SUPPORTIVE LIVING LTD., MAXWELL  
UWAGA and CAROL UWAGA

DOCUMENT **CONSENT RECEIVERSHIP ORDER**

CONTACT INFORMATION OF  
PARTY FILING THIS DOCUMENT: Cassels Brock & Blackwell LLP  
Suite 3810, Bankers Hall West  
888 3<sup>rd</sup> Street SW  
Calgary, Alberta, T2P 5C5

Attention: Jeffrey Oliver

Telephone 403-351-2921  
Facsimile 403-648-1151  
Email: [JOliver@casselsbrock.com](mailto:JOliver@casselsbrock.com)

File No. 33336-389

DATE ON WHICH ORDER WAS PRONOUNCED: Thursday, January 23, 2020

NAME OF JUDGE WHO MADE THIS ORDER: The Honourable Mr. Justice C.M. Jones

LOCATION OF HEARING: Calgary Law Courts

**UPON** the application of The Bank of Montreal in respect of UWAMS Supportive Living Ltd. (the "Debtor"); **AND UPON** having read the Application, the Affidavit of Trevor Bauer, sworn August 12, 2019, filed, the Affidavit of Trevor Bauer, sworn August 14, 2019, filed, the Affidavit of Trevor Bauer, sworn October 3, 2019, filed, the Affidavit of Trevor Bauer sworn January \_\_, 2020, the First Report of the Interim Receiver dated October 30, 2019, the Second Report of the Interim Receiver dated December 2, 2019, filed, the Affidavit of Service of Richard Comstock, sworn January \_\_, 2020, filed, the Interim Receivership Order pronounced by the Honourable Justice R.A. Neufeld on October 11, 2019, the First Continuation Order pronounced by the Honourable Justice C.M. Jones on November 8, 2019, and the Second Continuation Order pronounced by the Honourable Justice D.R. Mah on December 10, 2019; **AND UPON** reading the consent of Deloitte Restructuring Inc. to act as receiver and manager (the "Receiver") of the Debtor, filed; **AND UPON** hearing counsel for The Bank of Montreal, counsel for the proposed Receiver and any other counsel or other interested parties present; **IT IS HEREBY ORDERED AND DECLARED THAT:**

#### **SERVICE**

1. The time for service of the notice of application for this order (the "Order") is hereby abridged and deemed good and sufficient and this application is properly returnable today.

#### **APPOINTMENT**

2. Pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "BIA") and section 13(2) of the *Judicature Act*, R.S.A. 2000 Deloitte Restructuring 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").

#### **RECEIVER'S POWERS**

3. The Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
  - (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
  - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to

safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to or by the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (j) 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, and provided further that nothing in this Order shall authorize the Receiver to defend or settle the action in which this Order is made unless otherwise directed by this Court;

- (k) to market any or all 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;
- (l) 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 60(8) of the *Personal Property Security Act*, R.S.A. 2000, c. P-7 or any other similar legislation in any other province or territory shall not be required.

- (m) to apply for any vesting order or other orders (including, without limitation, confidentiality or sealing 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;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate 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;
- (o) to register a copy of this Order and any other orders in respect of the Property against title to any of the Property, include without limitation the lands describe in Schedule "A" hereto, and when submitted by the Receiver for registration this Order shall be immediately registered by the Registrar of Land Titles of Alberta, or any other similar government authority, notwithstanding Section 191 of the *Land Titles Act*, RSA 2000, c. L-4, or the provisions of any other similar legislation in any other province or territory, and notwithstanding that the appeal period in respect of this Order has not elapsed and the Registrar of Land Titles shall accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtor and not in its personal capacity;

- (p) 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;
- (q) 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;
- (r) to retain for the unexpired term, assign, surrender, renegotiate, or terminate any lease or agreement related to the Property;
- (s) to collect the rents, profits and other receipts arising from the Property, or any part thereof;
- (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 or the performance of any statutory obligations;

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

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. (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 (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver's request.
5. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks or other data storage media containing any such

information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.

6. 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**

7. No proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

8. 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, provided, however, that nothing in this Order shall: (i) prevent any Person from commencing a proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such proceeding is not commenced before the expiration of the stay provided by this paragraph; and (ii) affect a

Regulatory Body's investigation in respect of the debtor or an action, suit or proceeding that is taken in respect of the debtor by or before the Regulatory Body, other than the enforcement of a payment order by the Regulatory Body or the Court. "**Regulatory Body**" means a person or body that has powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a Province.

#### **NO EXERCISE OF RIGHTS OF REMEDIES**

9. All rights and remedies of any Person, whether judicial or extra-judicial, statutory or non-statutory (including, without limitation, set-off rights) against or in respect of the Debtor or the Receiver or affecting the Property are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided, however, that nothing in this Order shall:
- (a) empower the Debtor to carry on any business that the Debtor is not lawfully entitled to carry on;
  - (b) prevent the filing of any registration to preserve or perfect a security interest;
  - (c) prevent the registration of a claim for lien; or
  - (d) exempt the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment.
10. Nothing in this Order shall prevent any party from taking an action against the Applicant where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Monitor at the first available opportunity.

#### **NO INTERFERENCE WITH THE RECEIVER**

11. No Person shall accelerate, suspend, 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, except with the written consent of the Debtor and the Receiver, or leave of this Court.

#### **CONTINUATION OF SERVICES**

12. All persons having:

- (a) statutory or regulatory mandates for the supply of goods and/or services; or
- (b) oral or written agreements or arrangements with the Debtor, 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, suspending or terminating the supply of such goods or services as may be required by the Receiver or exercising any other remedy provided under such agreements or arrangements. The Receiver shall be entitled to the continued use of the Debtor's current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with the payment practices of the Debtor, or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

#### **RECEIVER TO HOLD FUNDS**

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

#### **EMPLOYEES**

14. Subject to employees' rights to terminate their employment, all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, S.C. 2005, c.47 ("**WEPPA**").

15. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

16. (a) Notwithstanding anything in any federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:
  - (i) before the Receiver's appointment; or
  - (ii) after the Receiver's appointment unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.
- (b) Nothing in sub-paragraph (a) exempts a Receiver from any duty to report or make disclosure imposed by a law referred to in that sub-paragraph.
- (c) Notwithstanding anything in any federal or provincial law, but subject to sub-paragraph (a) hereof, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, the Receiver is not personally liable for failure to comply with the order, and is not personally liable for any costs that are or would be incurred by any person in carrying out the terms of the order,
  - (i) if, within such time as is specified in the order, within 10 days after the order is made if no time is so specified, within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, or during the period of the stay referred to in clause (ii) below, the Receiver:

- A. complies with the order, or
  - B. on notice to the person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;
- (ii) during the period of a stay of the order granted, on application made within the time specified in the order referred to in clause (i) above, within 10 days after the order is made or within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, by,
- A. the court or body having jurisdiction under the law pursuant to which the order was made to enable the Receiver to contest the order; or
  - B. the court having jurisdiction in bankruptcy for the purposes of assessing the economic viability of complying with the order; or
- (iii) if the Receiver had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

17. Except for gross negligence or wilful misconduct, as a result of its appointment or carrying out the provisions of this Order the Receiver shall incur no liability or obligation that exceeds an amount for which it may obtain full indemnity from the Property. Nothing in this Order shall derogate from any limitation on liability or other protection afforded to the Receiver under any applicable law, including, without limitation, Section 14.06, 81.4(5) or 81.6(3) of the BIA.

#### **RECEIVER'S ACCOUNTS**

18. The Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case, incurred at their standard rates and charges. The Receiver and counsel to the Receiver shall be entitled to the benefits of and are hereby granted a charge (the "**Receiver's Charge**") on the Property, which charge shall not exceed an aggregate amount of \$250,000, as security for their professional fees and disbursements incurred at the normal rates and charges of the Receiver and such counsel, both before and after the making of this Order in respect of these proceedings, and the Receiver's Charge shall form a first charge on the Property in priority to all

security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person but subject to section 14.06(7), 81.4(4) and 81.6(2) of the BIA.

19. The Receiver and its legal counsel shall pass their accounts from time to time.
20. 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 the 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**

21. 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 \$250,000 (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, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges set out in sections 14.06(7), 81.4(4) and 81.6(2) of the BIA.
22. Neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
23. The Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "B" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.
24. 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.

25. The Receiver shall be allowed to repay any amounts borrowed by way of Receiver's Certificates out of the Property or any proceeds, including any proceeds from the sale of any assets without further approval of this Court.

#### **ALLOCATION**

26. Any interested party may apply to this Court on notice to any other party likely to be affected, for an order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the various assets comprising the Property.

#### **GENERAL**

27. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
28. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Receiver will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Receiver's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
29. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.
30. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction 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, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.
31. The Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

32. The Plaintiff shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis, including legal costs on a solicitor-client full 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.
33. Any interested party may apply to this Court to vary or amend this Order on not less than 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.

#### **FILING**

34. The Receiver shall establish and maintain a website in respect of these proceedings at [www.insolvencies.deloitte.ca/en-ca/Uwams](http://www.insolvencies.deloitte.ca/en-ca/Uwams) (the "**Receiver's Website**") and shall post there as soon as practicable:
  - (a) all materials prescribed by statute or regulation to be made publically available; and
  - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, or served upon it, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.
35. Service of this Order shall be deemed good and sufficient by:
  - (a) serving the same on:
    - (i) the persons listed on the service list created in these proceedings or otherwise served with notice of these proceedings;
    - (ii) any other person served with notice of the application for this Order;
    - (iii) any other parties attending or represented at the application for this Order; and
  - (b) posting a copy of this Order on the Receiver's Websiteand service on any other person is hereby dispensed with.

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

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Justice of the Court of Queen's Bench of Alberta

CONSENTED TO THIS 9<sup>th</sup> day of December, 2019.

**MCMILLAN LLP**

  
\_\_\_\_\_  
Per: Adam Maerov  
Counsel to UWAMS Supportive Living Ltd.

**SCHEDULE "A"**  
**DESCRIPTION OF LANDS**

Title Number: 131 148 847

Legal description:

LEGAL DESCRIPTION  
PLAN 577JK  
BLOCK 45  
LOT 24  
EXCEPTING THEREOUT ALL MINES AND MINERALS

Municipal Address: 9504 2nd Street SE Calgary, Alberta T2J 0V9

**SCHEDULE "B"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that Deloitte Restructuring Inc., receiver and manager (the "Receiver") of all of the assets, undertakings and properties of UWAMS Supportive Living Ltd. appointed by Order of the Court of Queen's Bench of Alberta and Court of Queen's Bench of Alberta in Bankruptcy and Insolvency (collectively, the "Court") dated the [●] day of [●], 2020 (the "Order") made in action numbers [●], 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 [\$] that 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 *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at [●].
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.
7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

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