

**THE KING'S BENCH
WINNIPEG CENTRE**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF MANITOBA CLINIC MEDICAL CORPORATION AND THE MANITOBA CLINIC HOLDING CO. LTD.

(the "Applicants")

APPLICATION UNDER: THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C., c. C-36, AS AMENDED

TRUE COPY

**APPROVAL AND VESTING ORDER – 1439573 B.C. LTD.
DATE OF HEARING: FRIDAY, NOVEMBER 24, 2023 AT 10:00 A.M.
THE HONOURABLE MR. JUSTICE CHARTIER**

**McDougall Gauley LLP
500 616 Main Street
Saskatoon SK S7J 0H6**

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CLIENT FILE NO. 568954.1**

**THE KING'S BENCH
WINNIPEG CENTRE**

THE HONOURABLE)
) Friday, the 24th day of November, 2023
MR. JUSTICE CHARTIER)

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APPROVAL AND VESTING ORDER – 1439573 B.C. LTD.

THIS MOTION, made by Alvarez & Marsal Canada Inc., in its capacity as the Court-appointed monitor (the "**Monitor**") of Manitoba Clinic Medical Corporation ("**Medco**") and The Manitoba Clinic Holding Co. Ltd. (together with Medco, the "**Applicants**"), for an order approving the sale transaction (the "**Medco Transaction**") contemplated by an asset purchase agreement (the "**Medco APA**") between the Monitor, in its capacity as Monitor of Medco, as vendor, and 1439573 B.C. Ltd. (the "**BC Ltd.**"), as purchaser, dated September 21, 2023 (as amended by the Amendment to the Asset Purchase Agreement dated November 2, 2023) and appended to the Sixth Report of the Monitor dated November 20, 2023 (the "**Sixth Report**"), and vesting in BC Ltd. all of Medco's right, title and interest in and to the assets described in the Medco APA (the "**Medco Assets**"), was heard this day at the Law Courts Building at 408 York Avenue, in the City of Winnipeg, Manitoba.

ON READING the Sixth Report and the Confidential Supplement to the Sixth Report dated November 20, 2023, and on hearing the submissions of counsel for the Monitor, the Applicants, Canadian Imperial Bank of Commerce, HSCF Property Inc., 1439573 B.C. Ltd., and Dale

Syndicate Services Ltd., no one appearing for any other person on the service list, although properly served as appears from the affidavit of Shelby Braun sworn November 21, 2023; all filed:

SERVICE

1. THIS COURT ORDERS AND DECLARES that the time for service of the Monitor's notice of motion and supporting materials is hereby abridged and validated so that the motion is properly returnable today and hereby dispenses with further service thereof.

APPROVAL OF THE MEDCO TRANSACTION

2. THIS COURT ORDERS AND DECLARES that the Medco Transaction is hereby approved, and the execution of the Medco APA by the Monitor is hereby authorized and approved, with such minor amendments as the Monitor may deem necessary. The Monitor 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 Medco Transaction and for the conveyance of the Medco Assets to BC Ltd.

3. THIS COURT ORDERS AND DECLARES that the Monitor shall incur no liability or obligation as a result of 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 Monitor by the *Companies' Creditors Arrangement Act* (Canada) or any applicable legislation.

VESTING OF THE PROPERTY

4. THIS COURT ORDERS AND DECLARES that, upon the delivery of a Monitor's certificate to BC Ltd. substantially in the form attached as Schedule A hereto (the "**Monitor's Certificate**"), all of Medco's right, title and interest in and to the Medco Assets described in the Medco APA and listed on Schedule B hereto shall vest absolutely in BC Ltd., 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 Mr. Justice Kroft dated December 1, 2022; (ii) all charges, security interests or claims evidenced by registrations pursuant to *The Personal Property Security Act* (Manitoba) 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 or any Cure Costs payable by BC Ltd. in respect of the Assigned Contracts (as that term is defined in the Medco APA)) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Medco Assets are hereby expunged and discharged as against the Medco Assets.

5. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Medco Assets shall stand in the place and stead of the Medco Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Medco Assets with the same priority as they had with respect to the Medco Assets immediately prior to the sale, as if the Medco 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.

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

7. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Monitor is authorized and permitted to disclose and transfer to BC Ltd. all human resources and payroll information in Medco's records pertaining to Medco's past and current employees. BC Ltd. 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 Medco.

8. 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 Medco and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of Medco;

the vesting of the Medco Assets in BC Ltd. pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Medco and shall not be void or voidable by creditors of Medco, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable 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 or action other than in good faith pursuant to any applicable federal or provincial legislation.

MISCELLANEOUS MATTERS

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 Monitor 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 Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

~~November~~ ^{December 1}, 2023


CHARTIER J.

I, Craig Frith, of the firm of McDougall Gauley LLP, hereby certify that I have received the consents as to form of the following parties:

J.J. Burnell of MLT Aikins LLP, counsel for Canadian Imperial Bank of Commerce
David R.M. Jackson of Taylory McCaffrey LLP, counsel for Manitoba
Catherine Howden of Pitblado Law, counsel for HSCF Property Inc.
Brandon Rasula of WELL Health Technologies Corp., counsel for 1439573 B.C. Ltd.
Arad Mojtahedi of Norton Rose Fulbright, counsel for Dale Syndicate Services Ltd.

Schedule A – Form of Monitor's Certificate

File No. CI 22-01-38613

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APPLICATION UNDER: *THE COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C., C. C-

MONITOR'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Kroft of the Manitoba Court of King's Bench (the "**Court**") dated December 1, 2022, Alvarez & Marsal Canada Inc. was appointed as the Monitor (the "**Monitor**") of Manitoba Clinic Medical Corporation ("**Medco**") and The Manitoba Clinic Holding Co. Ltd .

B. Pursuant to an Order of the Honourable Mr. Justice Chartier of the Court dated November 24, 2023, the Court approved the asset purchase agreement dated September 21, 2023 (as amended by the Amendment to the Asset Purchase Agreement dated November 2, 2023) (the "**Medco APA**") between the Monitor, in its capacity as court-appointed Monitor of Medco, as vendor, and 1439573 B.C. Ltd. (the "**BC Ltd.**"), as purchaser, and provided for the vesting in BC Ltd. of Medco's right, title and interest in and to the Medco Assets, which vesting is to be effective with respect to the Medco Assets upon the delivery by the Monitor to BC Ltd. of a certificate confirming (i) the payment by BC Ltd. of the Purchase Price for the Medco Assets; (ii) that the conditions to Closing have been satisfied or waived by the Monitor and the BC Ltd.; and (iii) the Medco Transaction has been completed to the satisfaction of the Monitor.

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

THE MONITOR CERTIFIES the following:

1. BC Ltd. has paid and the Monitor has received the Purchase Price for the Medco Assets payable on the Closing Date pursuant to the Medco APA;
2. The conditions to Closing the Medco APA have been satisfied or waived by the Monitor and BC Ltd.; and
3. The Medco Transaction has been completed to the satisfaction of the Monitor.
4. This Certificate was delivered by the Monitor at _____ [TIME] on _____ [DATE].

Alvarez & Marsal Canada Inc., in its capacity as Monitor of Manitoba Clinic Medical Corporation and The Manitoba Clinic Holding Co. Ltd., and not in its personal or corporate capacity

Per: _____

Name:

Title:

Schedule B – Medco Assets

- (a) all furniture, fixtures, equipment, machinery, tools, vehicles, office equipment, computers, telephones, hardware, software, and relevant other miscellaneous tangible and intangible assets owned by Medco and which are located within the leased premises occupied by Medco;
- (b) all medical, office, scientific, testing or other materials and supplies owned by Medco and which are located within the leased premises occupied by Medco;
- (c) any permits or licenses issued by the College, all permits which are held by Medco and required to operate the Business, or which are required for the ownership and use of the Business (which can be assigned or transferred);
- (d) the Assigned Contracts;
- (e) all rights to any Action of any nature available to or being pursued by Medco as a plaintiff to the extent related to the Purchased Assets or the Assumed Liabilities, whether arising by way of counterclaim or otherwise;
- (f) all Patient Records;
- (g) all of Medco's rights under warranties, indemnities and all similar rights against third parties to the extent related to any Purchased Assets;
- (h) all of Medco's insurance benefits, including all rights and proceeds, arising from or relating to the Business, the Purchased Assets or the Assumed Liabilities;
- (i) the Books and Records;
- (j) the Business' goodwill, which is based on the relationship between Medco and the Patients and referral sources of the Business; and
- (k) the LibreMD Interest.

Capitalized terms appearing in this Schedule B will have the meanings given to them in the Medco APA.

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

N/A

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

(unaffected by the Vesting Order)

The Property Registry

1.1 Manitoba Clinic Medical Corporation: Registration 202211924405 (2022-07-15 3:52:45 PM)

Registered under: *The Personal Property Security Act*

Debtor Address: 790 Sherbrook Street, Winnipeg, MB Canada R3A1M3

Secured Parties: CSI LEASING CANADA LTD., 2400 Winston Park Drive Unit 4, Oakville, ON, Canada L6H0G7

General Collateral Description: VARIOUS GOODS, EQUIPMENT, SOFTWARE, PERIPHERALS, AND PERSONAL PROPERTY, TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPAIRS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO LEASED TO LESSEE PURSUANT TO EQUIPMENT SCHEDULE 1 TO MASTER LEASE NO. 301206, AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH THE COLLATERAL OR PROCEEDS THEREOF, INCLUDING WITHOUT LIMITATION, MONEY, CHEQUES, DEPOSITS IN DEPOSIT-TAKING INSTITUTIONS, GOODS, ACCOUNTS RECEIVABLE, RENTS OR OTHER PAYMENTS ARISING FROM THE LEASE OF THE COLLATERAL, CHATTEL PAPER, INSTRUMENTS, INTANGIBLES, DOCUMENTS OF TITLE, SECURITIES, AND RIGHTS OF INSURANCE PAYMENTS OR ANY OTHER PAYMENTS AS INDEMNITY OR COMPENSATION FOR LOSS OR DAMAGE TO THE COLLATERAL OR PROCEEDS OF THE COLLATERAL.