

File No. CI 22-01-38613

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

NOTICE OF APPLICATION
HEARING DATE: WEDNESDAY, NOVEMBER 30, 2022 AT 9:00 AM
BEFORE THE HONOURABLE MR. JUSTICE KROFT

TAYLOR McCaffrey LLP
Barristers and Solicitors
2200 – 201 Portage Avenue
Winnipeg, Manitoba
R3B 3L3

Douglas E. Finkbeiner, K.C./
David R.M. Jackson/
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Client File No. 1102-154 DJAC

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

NOTICE OF APPLICATION

TO THE RESPONDENTS

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicants. The claim made by the applicants appears on the following page.

THIS APPLICATION will come on for a hearing before The Honourable Mr. Justice Kroft on Wednesday, the 30th day of November, 2022 at 9:00 am at the Law Courts Building, 408 York Avenue at Kennedy Street, in the City of Winnipeg, in the Province of Manitoba.

IF YOU WISH TO OPPOSE THIS APPLICATION, you or a Manitoba lawyer acting for you must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must serve a copy of the evidence on the applicants' lawyer or, where the applicants do not have a lawyer, serve it on the applicants, and file it, with

proof of service, in the court office where the application is to be heard as soon as possible, but not later than 2:00 p.m. on the day before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: November 25, 2022

Issued by *S Bornn, Deputy Registrar*
Deputy Registrar

TO: **THE SERVICE LIST ATTACHED HERETO**

THE APPLICANTS MAKE APPLICATION FOR:

1. An Order (the "**Initial Order**") under section of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") and pursuant to the inherent jurisdiction of this Honourable Court, substantially in the form attached hereto as "**Schedule 1**", *inter alia*:

- (a) Abridging the time for service, validating service or dispensing with service, if necessary, of the Notice of Application and the materials filed in support of the Application, such that the Application is properly returnable on the 30th day of November, 2022 at 9:00am, and dispensing with further service thereof;
- (b) Declaring each of the Applicants to be a company to which the CCAA applies;
- (c) Authorizing the Applicants to carry on business in a manner consistent with the preservation of their business and property;
- (d) Appointing Alvarez & Marsal Canada Inc. ("**A&M**") as monitor of the Applicants with the rights and duties set out in the CCAA and the Initial Order ("**Proposed Monitor**", and if appointed, the "**Monitor**");
- (e) Staying all proceedings, rights and remedies taken or that might be taken in respect of the Applicants, including their respective businesses and property, their directors and officers, and the Monitor ("**Stay of Proceedings**") for no more than 10 days;
- (f) Granting the following charges over the Applicants' property (collectively, the "**Priority Charges**")
 - (i) An Administrative Charge in favour of counsel to the Applicants, the Monitor, and counsel to the Monitor (collectively, the "**Professional Group**") to secure payment of their professional fees and disbursements to a maximum amount of \$500,000 ("**Administration Charge**"); and
 - (ii) A Directors' Charge in an amount to be determined;;

2. Scheduling a comeback hearing on December 1, 2022 at 9:00am ("**Comeback Hearing**") to seek an amended and restated Initial Order ("**Amended and Restated Initial Order**") in the form attached as "**Schedule A**" to the Notice of Motion filed herein, including but not limited to the following relief:

- (i) An extension of the Stay of Proceedings;
 - (ii) Providing the restructuring powers contemplated under the Model Order;
 - (iii) Approving a debtor-in-possession (**DIP**) Term Sheet ("**DIP Term Sheet**"), approving a DIP loan ("**DIP Loan**") limited to \$4,000,000;
 - (iv) A DIP Lender's Charge in an amount to be determined, with a super priority subject only to the Administration Charge; and
 - (v) Enhancing the Monitor powers; and
 - (vi) Authorizing payment of the True-Up Payments.
3. Such further and other relief as counsel may advise and this Honourable Court deems just.

THE GROUNDS FOR THE APPLICATION ARE:

1. The Applicants are Manitoba Clinic Medical Corporation ("**Medco**") and The Manitoba Clinic Holding Co. Ltd. ("**Realco**"). Together they are referred to as the Manitoba Clinic.
2. The Applicants operate the largest private medical clinic in the Province of Manitoba (the "**Facility**").
3. Medco operates as a multi-specialty clinic in the Facility offering diverse healthcare services. Realco holds title to the real property for the Facility as well as certain equipment and financial investments for Manitoba Clinic.
4. Realco leases 124,038 square feet of the Facility to Medco (the "**Medco Lease**").

Urgent Need for Relief

5. The Applicants are insolvent, face an imminent liquidity crisis and are in urgent need of relief under the CCAA. Additional financing is urgently required to provide the Applicants with the required liquidity for continued operations in the ordinary course. The Applicants will have insufficient funds without the ability to access a DIP Loan urgently.

6. In the past year, the Applicants have suffered losses due to, among other things: (i) failure to recruit a full complement of physicians which negatively affects their ability to generate income through invoicing Manitoba Health and recovering on overhead; (ii) 52,000 square feet of space available in the Facility remains unoccupied; (iii) recent physician departures; and (iv) liquidity issues.

7. The Applicants' management team has made determined efforts to address the financial challenges, including, among other things: (i) increasing tray fees charged by physicians; (ii) attempting to recruit more physicians; (iii) reducing support staff; (iv) hiring a listing agent to lease vacant space in the Facility; (v) undertaking two closed sales processes; (vi) selling surplus assets; (vii) increasing parking rates; (viii) adjusting the physicians' rate grid; (ix) entering into forbearance agreements with their lender; and, (x) applying and awarded Manitoba Government Request for Service Agreement (RFSA) awards for endoscopic and holter monitoring.

CCAA Applies

8. The Applicants are "debtor companies" to which the CCAA applies being Manitoba corporations with their registered head offices in Manitoba.

9. The current and contingent claims against the Applicants exceed \$5,000,000 and the Applicants are insolvent.

10. In consultation with its advisors, including the Proposed Monitor, the Applicants have determined that the CCAA process is the most beneficial way to maximize value for the Manitoba Clinic's stakeholders.

11. The stay of proceedings and the other relief set out in the Initial Order will provide the Applicants with the opportunity to, among other things:

- a) Manage liquidity issues;
- b) Prevent enforcement action by creditors;
- c) Create stability for the remaining physicians at the Manitoba Clinic to defend against the risk of further physicians resigning;
- d) Restructure the Medco's Lease in a reasonable and efficient manner;
- e) Conduct and consider new sale and investment solicitation process in an efficient manner;
and
- f) Explore opportunities available with third parties such as the Province of Manitoba in an efficient and productive manner.

12. Absent the protection of the CCAA proceedings, the Applicants will not be able to continue operating.

13. An order under the CCAA is required to preserve the value of the Applicants' business for the benefit of the Applicants' stakeholders.

14. In addition, the Manitoba Clinic currently provides approximately 49,000 medical procedures per year and approximately 306,000 physician visits by parties each year. An Order under the CCAA is required because, if the Manitoba Clinic were to cease its operations, it would add significant stress to Manitoba's health care system.

15. The best way of facilitating the work and duties required of the Monitor is through an Order under the CCAA.

16. The Court appointment of the Monitor will increase the likelihood of cooperation by all stakeholders in relation to the liabilities of the Applicants.

17. A Court appointed Monitor will increase the likelihood of maximizing the return on and preserving the assets and operations of the Applicants for the benefit of stakeholders.

18. It is just and convenient to the grant the relief sought.

DIP Loan Needed

19. Manitoba Clinic's cash position is critically low and financing is required to fund operations and restructuring costs during the stay of proceedings.

20. Unless the DIP Loan is approved and the DIP Lender's Charge is granted, the applicants will likely cease operating and payroll obligations will not be met.

21. Under the DIP Term Sheet, if approved, the DIP Lender will provide an initial advance under the DIP Loan of \$4,000,000 to the Applicants.

22. The amount of the initial advance under the proposed DIP Loan is the amount estimated to be required to allow the Applicants to continue operations in the ordinary course during the initial stay of proceedings, including the payment of all pre-filing professional fees.

23. The proposed DIP Loan is conditional upon court approval of the DIP Loan and granting of the DIP Lender's Charge, which is proposed to have a priority against the Applicants' property, subject only to the Administration Charge.

Stay of Proceedings

24. The Manitoba Clinic requires a stay of proceedings to allow it to maintain the *status quo* and continue to operate its business with a view to preserving and maximizing value.

25. It is necessary and in the best interests of the Applicants, the Applicants' stakeholders and the stakeholders of the Manitoba healthcare system that the Applicants be afforded the "breathing space" provided by the CCAA while they pursue various restructuring processes, including a sales process, for the benefit of their creditors and all other stakeholders.

Administration Charge

26. The Applicants are seeking the Administration Charge to secure the fees and disbursements of the Professional Group incurred in connection with the services rendered to the Applicants both before and after the commencement of these CCAA proceedings.

27. The granting of the Administration Charge is appropriate in the circumstances and will facilitate the active involvement of the beneficiaries of the charges during the CCAA proceedings.

28. The Administration Charge sought is for the maximum amount of \$500,000 and is proposed to have a first-ranking priority against the Applicants' property.

Director and Officer Protection

29. A successful restructuring of Medco and Realco will only be possible with the continued participation of their respective Boards of Directors, Officers and key management personnel. These personnel are essential to the continuing business of the Applicants.

30. The Applicants' directors and officers have years of experience in the medical profession. This specialized expertise and the relationship that they have forged with the Applicants' suppliers, employees and other stakeholders cannot be easily replaced.

31. The directors of the Applicants have indicated that due to the potential significant personal liability, they cannot continue their services or involvement in the restructuring unless an Order under the CCAA includes a charge on the assets, property and undertakings of the Applicants in priority to all other charges except the Administration Charge and the DIP Lender's Charge to indemnify them for potential liabilities.

32. The Applicants believe that a Director's Charge is fair, reasonable and necessary in the circumstances.

Other Grounds

33. The *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36, as amended, sections 9(1), 9(2), 11, 11.02(1), 11(2), 11.2, 11.03, 11.51, 11.52, 11.7 and 23.1 and the statutory, inherent and equitable jurisdiction of this Court;

34. *The Court of King's Bench Rules*, Man. Reg. 553/88, as amended, Rules 1.04, 2.01(1), 2.03, 3.02, 14.05, 16.04, 16.08 and 38.

35. *The Court of King's Bench Act*, C.C.S.M. c. C280, section 38.

36. 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 APPLICATION:

1. The Affidavit of Keith McConnell, sworn on November 25, 2022.
2. The Consent of Alvarez & Marsal Canada Inc. to act as Monitor in the CCAA proceedings;
3. The pre-filing report of the Proposed Monitor, Alvarez & Marsal Canada Inc., to be filed;
4. Such further and other material as counsel may advise and this Honourable Court may permit.

November 25, 2022

TAYLOR McCAFFREY LLP
2200-201 Portage Avenue
Winnipeg, Manitoba
R3B 3L3

David R.M. Jackson
(204) 988-0375

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

SERVICE LIST
AS AT NOVEMBER 24, 2022

TAYLOR McCAFFREY LLP

Barristers & Solicitors
2200 – 201 Main Street
Winnipeg, Manitoba
R3B 3L3

Douglas E. Finkbeiner, K.C./Ph. 204-988-0414
David R.M. Jackson/Ph. 204-988-0275
Charles Roy/Ph. 204-988-0472
Fax No. 204-957-0945
File No. 1102-154

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

SERVICE LIST

Party/Counsel	Telephone	Facsimile	Party Represented
THE MANITOBA CLINIC MEDICAL CORPORATION THE MANITOBA CLINIC HOLDING CO. LTD. 790 Sherbrook Street Winnipeg, Manitoba, R3A 1M3 Attention: Keith McConnell E-Mail: kmccconnell@manitobaclinic.ca	204-788-5525		Applicants
TAYLOR MCCAFFREY LLP 2200-201 Portage Avenue Winnipeg, Manitoba, R3B 3L3 David R.M. Jackson Email: djackson@tmlawyers.com Douglas E. Finkbeiner, K.C. E-Mail: dfinkbeiner@tmlawyers.com Charles Roy Email: croy@tmlawyers.com	(204) 988-0475 (204) 988-0414 (204) 988-0472	204-957-0945	Solicitors for the Applicants

<p>MLT AIKINS LLP 30th Floor – 360 Main Street Winnipeg, Manitoba, R3C 4G1</p> <p>Attention: J.J. Burnell Anjali Sandhu E-Mail: jburnell@mltaikins.com E-Mail: asandhu@mltaikins.com</p>	<p>204-957-4663</p>	<p>204-957-4285</p>	<p>Solicitors for Canadian Imperial Bank of Commerce</p>
<p>ALVAREZ & MARSAL CANADA INC. Suite 1110, 250 6th Avenue S.W. Calgary, Alberta, T2P 3H7</p> <p>Attention: Orest Konowalchuk E-Mail: okonowalchuk@alvarezandmarsal.com</p>	<p>(403)470-7478</p>		<p>Proposed Monitor</p>
<p>McDOUGALL GAULEY 500 – 616 Main Street Saskatoon, Saskatchewan S7H 0J6</p> <p>Attention: Ian A.Sutherland E-Mail: isutherland@mcdougallgauley.com</p> <p>Attention: Craig Frith E-Mail: cfrith@mcdougallgauley.com</p>	<p>306-665-5417</p>	<p>306-652-1323</p>	<p>Counsel for Proposed Monitor</p>
<p>MANITOBA JUSTICE Civil Legal Services 301 – 310 Broadway Avenue Winnipeg, Manitoba R3C 3L6</p> <p>Attention: Shelley Haner Email: shelley.haner@gov.mb.ca</p>	<p>204-792-6471</p>	<p>204-948-2826</p>	<p>Counsel for the Minister of Finance</p>
<p>SURREY NATIONAL VERIFICATION AND COLLECTION CENTRE CANADA REVENUE AGENCY 9755 King George Boulevard Surrey, British Columbia, V3T 5E1</p>		<p>1-866-219-0311</p>	

DEPARTMENT OF JUSTICE CANADA 601 – 400 St. Mary Avenue Winnipeg, Manitoba, R3C 4K5 Attention: Penny Piper E-Mail: penny.piper@justice.gc.ca			Counsel for Her Majesty
CANADA REVENUE AGENCY Pacific Insolvency Intake Centre Surrey National Verification and Collection Centre Canada Revenue Agency 9755 King George Boulevard Surrey, British Columbia, V3T 5E1	866-891-7403	866-219-0311	

SCHEDULE 1

File No. CI 22-01-38613

**THE KING'S BENCH
WINNIPEG CENTRE**

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS
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(the "**Applicants**")

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

INITIAL ORDER

DATE OF HEARING: WEDNESDAY, NOVEMBER 30, 2022 AT 9:00 A.M.
BEFORE THE HONOURABLE MR. JUSTICE KROFT

TAYLOR McCAFFREY LLP

Barristers & Solicitors
2200 – 201 Main Street
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R3B 3L3

Douglas E. Finkbeiner, K.C./Ph. 204-988-0414
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Fax No. 204-957-0945

File No. 1102-154

**THE KING'S BENCH
WINNIPEG CENTRE**

THE HONOURABLE)
)
MR. JUSTICE KROFT) Wednesday, the 30th day of November, 2022
)

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
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(the "**Applicants**")

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

INITIAL ORDER

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day at the Law Courts Building at 408 York Avenue, in the City of Winnipeg, in the Province of Manitoba.

ON READING the affidavit of Keith McConnell sworn November 25, 2022 and the Exhibits thereto, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicants and Canadian Imperial Bank of Commerce ("**CIBC**"), no one appearing for any other interested parties although duly served as appears from the affidavit of service of **[NAME]** sworn **[DATE]** and on reading the consent of Alvarez & Marsal Canada Inc. to act as the Monitor,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the supporting materials is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. THIS COURT ORDERS AND DECLARES that the Applicants are each a company to which the CCAA applies.

PLAN OF ARRANGEMENT

3. THIS COURT ORDERS that the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

4. THIS COURT ORDERS that the Applicants shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. THIS COURT ORDERS that, subject to paragraph 21 herein, the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each

case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and

- (b) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

6. THIS COURT ORDERS that, subject to paragraph 21 herein, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicants following the date of this Order.

7. THIS COURT ORDERS that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales

Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and

- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

8. THIS COURT ORDERS that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

9. THIS COURT ORDERS that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

10. THIS COURT ORDERS that until and including December 9, 2022, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the

Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

11. THIS COURT ORDERS that notwithstanding the Stay Period, subject to paragraph 9 herein CIBC shall be an unaffected creditor in the within matter for all purposes, and shall not be stayed from commencing or continuing a Proceeding.

NO EXERCISE OF RIGHTS OR REMEDIES

12. THIS COURT ORDERS that subject to paragraph 11 herein, during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

13. THIS COURT ORDERS that subject to paragraph 11 herein, during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence, contract of insurance, policy or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

14. THIS COURT ORDERS that , subject to paragraph 11 herein, during the Stay Period, all Persons having oral or written agreements with the Applicants 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 Business or the Applicants, 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 Applicants, and that the Applicants shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

15. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

16. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

17. THIS COURT ORDERS that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

18. THIS COURT ORDERS that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$●, as security for the indemnity provided in paragraph [17] of this Order. The Directors' Charge shall have the priority set out in paragraphs [29] and [31] herein.

19. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph [17] of this Order.

APPOINTMENT OF MONITOR AND ENHANCED POWER

20. THIS COURT ORDERS that Alvarez & Marsal Canada Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

21. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, and without altering in any way the limitations and obligations of the Applicants set out herein, is hereby directed and empowered to:

- (a) Monitor, review and direct the Applicants' receipts and disbursements and implement such measures of control as the Monitor deems reasonably necessary to ensure the appropriate monitoring of the Applicants' expenses and disbursements, including adding or removing signing authorities to and from the Applicants' bank accounts;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (d) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (e) take any steps reasonably incidental to the exercise of these powers or the performance of its statutory obligations; and
- (f) perform such other duties as are required by this Order or by this Court from time to time,

and in each case where the Monitor 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 Applicants and their past or present directors and officers and shareholders, and without interference from any other Person, provided, however, that the Monitor shall comply with all applicable laws and shall not have any authority or

power to elect or cause the election or removal of directors of the Applicants or to take any action to restrict or to transfer to the Monitor any of their powers, duties or obligations, except in accordance with section 11.5(1) of the CCAA.

MONITOR PROTECTIONS

22. THIS COURT ORDERS the enhancement of the Monitor's powers as set forth in this Order, the exercise by the Monitor of any of its powers, the performance by the Monitor of any of its duties, or the employment by the Monitor of any person in connection with its appointment and the performance of its powers and duties shall not constitute the Monitor as the employer, successor employer or related employer of the employees of the Applicants within the meaning of any provincial, federal, or municipal legislation, or common law governing employment, pensions or labour standards or any other statute, regulation or rule of law of equity for any purpose whatsoever or expose the Monitor to liability to any individual arising from or relating to their previous employment by the Applicants. All employees of the Applicants shall remain employees of the Applicants and nothing in this Order shall, in and of itself, cause the Monitor to be liable for any employee related liabilities or duties, including, without limitation, wages, severance pay, termination pay, vacation pay and pension or benefit amounts.

23. THIS COURT ORDERS that the Monitor is not and shall not be deemed to be, a director, officer or employee of either of the Applicants.

24. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business, except as set out in paragraph 21 and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

25. THIS COURT ORDERS that , notwithstanding the enhancement of the Monitor's powers and duties as set forth herein, the exercise by the Monitor of any of its powers, or the performance by the Monitor of any of its duties, the Monitor is not, and shall not be deemed, to be an owner of the Property for any purpose and nothing contained herein shall require the Monitor 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 Environment Act* (Manitoba), *The Water Resources Conservation Act* (Manitoba), *The Contaminated Sites Remediation Act* (Manitoba), *The Dangerous Goods Handling and Transportation Act* (Manitoba), *The Public Health Act* (Manitoba) or *The Workplace Safety and Health Act* (Manitoba), and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor'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, unless it is actually in Possession.

26. THIS COURT ORDERS that that the Monitor shall be entitled to communicate and/or engage with the Applicants' stakeholders and provide any creditor of the Applicants with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

27. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation, in its personal or corporate capacity, as a result of its appointment or the carrying out of 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 CCAA or any applicable legislation.

28. THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements (including any pre-filing fees and disbursements related to these CCAA proceedings),, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a semi-monthly basis, or such other basis as may be agreed to by the Monitor, its counsel, Applicants.

29. THIS COURT ORDERS that the Monitor and its legal counsel and counsel for the Applicants shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of this Court, but nothing herein shall fetter this Court's discretion to refer such matters to a Master of this Honourable Court.

30. THIS COURT ORDERS that the Monitor, counsel to the Monitor, if any, and the Applicants' counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$500,000.00, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs [29] and [31] hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

31. THIS COURT ORDERS that the priorities of the Directors' Charge, the Administration Charge and the DIP Lender's Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$500,000.00);

Second – Directors' Charge (to the maximum amount of **TBD**).

32. THIS COURT ORDERS that the filing, registration or perfection of the Directors' Charge and the Administration Charge (collectively, the "**Charges**") shall not be

required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

33. THIS COURT ORDERS that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, mortgages, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person, save and except for those claims contemplated by section 11.8(8) of the CCAA.

34. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge, the Administration Charge or the DIP Lender's Charge, unless the Applicants also obtain the prior written consent of the Monitor, and the beneficiaries of the Directors' Charge and the Administration Charge, or further Order of this Court.

35. THIS COURT ORDERS that the Directors' Charge and the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- a) the creation of the Charges shall create or be deemed to constitute a breach by the Applicants of any Agreement to which it is a party;

b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and

c) the payments made by the Applicants pursuant to this Order and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

36. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interest in such real property leases.

SERVICE AND NOTICE

37. THIS COURT ORDERS that the Monitor shall (i) without delay, publish in The Winnipeg Free Press a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

38. THIS COURT ORDERS that the Applicants and the Monitor be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile or electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

39. THIS COURT ORDERS that counsel for the Applicants shall prepare and keep current a service list ("**Service List**") containing the name and contact information (which may include the address, telephone number and facsimile number or email address) for service to: the Applicants; the Monitor; and each creditor or other interested Person who has sent a request, in writing, to counsel for the Applicants to be added to the Service List. The Service List shall indicate whether each Person on the Service List has elected to be served by email or facsimile, and failing such election the Service List shall indicate service by email. The Service List shall be posted on the website of the Monitor at the address indicated in paragraph [38] herein. **For greater certainty, creditors and other interested Persons who have received notice in accordance with paragraph [35(B)] of this Order and/or have been served in accordance with paragraph [36] of this Order, and who do not send a request, in writing, to counsel for the Applicants to be added to the Service List, shall not be required to be further served in these proceedings.**

40. THIS COURT ORDERS that the Applicants, the Monitor, and any party on the Service List may serve any court materials in these proceedings by facsimile or by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor may post a copy of any or all such materials on its website at www.alvarezandmarsal.com/manitobaclinic.com. Service shall be deemed valid and sufficient if sent in this manner.

GENERAL

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

42. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business or the Property.

43. 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 Applicants, the Monitor and their respective 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 Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

44. THIS COURT ORDERS that each of the Applicants and the Monitor 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 Monitor 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.

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

46. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Central Standard Time on the date of this Order.

[Date]

I, DAVID R.M. JACKSON, OF THE FIRM OF TAYLOR McCAFFREY LLP HEREBY CERTIFY THAT I HAVE RECEIVED THE CONSENTS AS TO FORM OF THE FOLLOWING PARTIES: [INSERT] AS DIRECTED BY THE HONOURABLE JUSTICE MR. KROFT.