

Ontario
**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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 **TARGET CANADA CO., TARGET
CANADA HEALTH CO., TARGET CANADA MOBILE GP
CO., TARGET CANADA PHARMACY (BC) CORP.,
TARGET CANADA PHARMACY (ONTARIO) CORP.,
TARGET CANADA PHARMACY CORP., TARGET
CANADA PHARMACY (SK) CORP., and TARGET
CANADA PROPERTY LLC**

APPLICANTS

MOTION RECORD OF THE APPLICANTS

**(Motion to Accept Filing of the Amended Plan
and Authorize Creditors' Meeting)**

April 6, 2016

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CCAA Proceedings of Target Canada Co.et al, Court File No. CV-15-10832-00CL

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TAB 1

Ontario
**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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 **TARGET CANADA CO., TARGET
CANADA HEALTH CO., TARGET CANADA MOBILE GP
CO., TARGET CANADA PHARMACY (BC) CORP.,
TARGET CANADA PHARMACY (ONTARIO) CORP.,
TARGET CANADA PHARMACY CORP., TARGET
CANADA PHARMACY (SK) CORP., and TARGET CANADA
PROPERTY LLC**

APPLICANTS

NOTICE OF MOTION

The Applicants will make a motion before a judge of the Ontario Superior Court of Justice (Commercial List) on April 13, 2016 at 8:30 a.m., or as soon after that time as the motion can be heard at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally

THE MOTION IS FOR:

1. An Order substantially in the form attached at Tab 3 of the Motion Record, *inter alia*:
 - (a) if necessary, abridging the time for service of this Notice of Motion and the Motion Record and dispensing with service on any person other than those served;
 - (b) accepting the filing of the Amended and Restated Joint Plan of Compromise and Arrangement dated April 6, 2016 (the "**Amended Plan**");
 - (c) authorizing the Target Canada Entities to establish one class of Affected Creditors (as defined in the Amended Plan) for the purpose of considering and voting on the Amended Plan;

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- (d) authorizing the Target Canada Entities to call, hold and conduct a meeting of the Affected Creditors (the “**Creditors’ Meeting**”) to consider and vote on a resolution to approve the Amended Plan, and approving the procedures to be followed with respect to the Creditors’ Meeting;
 - (e) setting the date for the Target Canada Entities’ motion seeking sanction of the Amended Plan should the Amended Plan be approved by the required majority of Affected Creditors at the Creditors’ Meeting;
 - (f) extending the Stay Period (as defined in paragraph 17 of the Initial Order) until and including June 6, 2016; and
 - (g) extending the Notice of Objection Bar Date (defined at paragraph 3(aa) of the Claims Procedure Order issued by Regional Senior Justice Morawetz on June 11, 2015, as amended) to 28 days following June 6, 2016 or such later date as this Court may order; and
2. Such further and other Relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

- (a) The Applicants and Partnerships listed on Schedule “A” to the Initial Order (the “**Target Canada Entities**”) were granted protection from their creditors under the CCAA pursuant to the Initial Order of the Ontario Superior Court of Justice (Commercial List) dated January 15, 2015 (as amended and restated, the “**Initial Order**”);
- (b) Alvarez & Marsal Canada Inc. was appointed in the Initial Order to act as the Monitor in these CCAA proceedings;
- (c) The Target Canada Entities, with the support of Target Corporation as Plan Sponsor, have developed the Amended Plan to present to Affected Creditors (all capitalized terms that are not otherwise defined herein have the meaning given to them in the Amended Plan);

- (d) If approved, sanctioned and implemented, the Amended Plan will:
- (i) complete the controlled and orderly wind down of the Target Canada Entities in a timely manner without costly and lengthy litigation and delay;
 - (ii) effect a compromise, settlement and payment of all Proven Claims in the near term;
 - (iii) grant releases in favour of the Target Canada Entities and others;
 - (iv) grant releases in favour of Target Corporation, except in respect of Landlord Guarantee Claims; and
 - (v) comply with paragraph 19A of the Initial Order, the Claims Procedure Order and the Court's January 15 Endorsement.
- (e) The Amended Plan contemplates that a single class of Affected Creditors will consider and vote on the Amended Plan on the basis that their interests are sufficiently similar to give them a commonality of interest;
- (f) The Amended Plan has the support of the Landlord Guarantee Creditors and the Landlord Non-Guarantee Creditors;
- (g) The Target Canada Entities intend to call the Creditors' Meeting in respect of the Amended Plan;
- (h) The Target Canada Entities propose that the Creditors' Meeting will be held at the Toronto Board of Trade in Toronto, Ontario on May 25, 2016;

Meeting Order

- (i) In advance of the Creditors' Meeting, it is necessary to establish procedures for the calling and conduct of the Creditors' Meeting;
- (j) The Meeting Order provides that, for the purposes of considering and voting on the Amended Plan, the Affected Creditors will constitute a single class;
- (k) The proposed Meeting Order also provides for, among other things:
 - (i) comprehensive notification of the Creditors' Meeting to the Affected Creditors;

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- (ii) procedures for the conduct of the Creditors' Meeting, including that a representative of the Monitor will preside as the Chair of the Creditors' Meeting and, subject to any further Order of this Court, will decide all matters relating to the conduct of the Creditors' Meeting;
- (iii) the voting procedure at the Creditors' Meeting;
- (iv) the manner of valuing Claims for voting and distribution purposes;
- (v) the process by which the Monitor will keep a separate record of votes cast by Affected Creditors holding Disputed Claims;
- (vi) the requirements for approval of the Amended Plan, including that the Amended Plan must receive an affirmative vote by the Required Majority;
- (vii) the processes and requirements for assigning claims; and
- (viii) the ability of the Target Canada Entities and the Monitor to make amendments to the Amended Plan;

Extension of Stay Period and Notice of Objection Bar Date

- (l) The Initial Order granted a stay of proceedings until February 13, 2015;
- (m) The Court subsequently extended the Stay Period seven times – most recently, on March 14, 2016, the Court extended the Stay Period to April 15, 2016;
- (n) The Target Canada Entities have been acting and continue to act in good faith and with due diligence in these CCAA proceedings;
- (o) It is just and convenient and in the interests of the Target Canada Entities and their respective stakeholders that the requested Order be granted and the Stay Period extended;
- (p) It is also proposed that the Court extend the Notice of Objection Bar Date to 28 days following June 6, 2016 so that parties do not need to incur unnecessary expenses in the event that the Amended Plan is approved by the creditors and sanctioned by the Court;
- (q) The relief sought on this motion is supported by the Monitor;

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- (r) The provisions of the CCAA and the inherent and equitable jurisdiction of this Honourable Court;
- (s) Rule 1.04, 1.05, 2.03, 3.02, 16 and 37 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended, and section 106 of the Ontario *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended; and
- (t) Such further and other grounds as the lawyers may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion

- (a) The Affidavit of Mark J. Wong sworn April 6, 2016 and the exhibits attached thereto;
- (b) The Twenty-Sixth Report of the Monitor, to be filed;
- (c) The Initial Order dated January 15, 2015, as amended and restated on February 11, 2015; and
- (d) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

April 6, 2016

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Lawyers for the Applicants

TO: **SERVICE LIST**

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 TARGET CANADA CO., *et al.*

Applicants

Court File No. CV-15-10832-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

NOTICE OF MOTION

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Matter No. 1159785

TAB 2

Court File No. CV-15-10832-00CL

Ontario
**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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 **TARGET CANADA CO., TARGET
CANADA HEALTH CO., TARGET CANADA MOBILE GP
CO., TARGET CANADA PHARMACY (BC) CORP.,
TARGET CANADA PHARMACY (ONTARIO) CORP.,
TARGET CANADA PHARMACY CORP., TARGET
CANADA PHARMACY (SK) CORP., and TARGET
CANADA PROPERTY LLC**

APPLICANTS

**AFFIDAVIT OF MARK J. WONG
(Sworn April 6, 2016)**

**(Motion to Accept Filing of the Amended Plan
and Authorize Creditors' Meeting)**

I, Mark J. Wong, of the City of Mississauga, in the Province of Ontario, General Counsel and Secretary for the Applicant Target Canada Co. ("TCC"), MAKE OATH AND SAY:

1. I am General Counsel and Secretary of TCC. I am a director and/or officer of each of the other Applicants. As such, I have personal knowledge of the matters deposed to herein. Where I have relied on other sources for information, I have specifically referred to such sources and verily believe them to be true. In preparing this Affidavit, I consulted with legal advisors to TCC, and representatives of Alvarez & Marsal Canada Inc. (the "**Monitor**").

2. I swear this Affidavit in support of the motion brought by the Applicants and the Partnerships listed on Schedule "A" hereto (collectively, the "**Target Canada Entities**") seeking an Order (the "**Meeting Order**") to, *inter alia*:

- (a) accept the filing of the Amended and Restated Joint Plan of Compromise and Arrangement dated April 6, 2016 (the "**Amended Plan**");
- (b) authorize the Target Canada Entities to establish one class of Affected Creditors for the purpose of considering and voting on the Amended Plan (the "**Unsecured Creditors' Class**");
- (c) authorize the Target Canada Entities to call, hold and conduct a meeting of the Affected Creditors (the "**Creditors' Meeting**") to consider and vote on a resolution to approve the Amended Plan, and approve the procedures to be followed with respect to the Creditors' Meeting;
- (d) set the date for the hearing of the Target Canada Entities' motion seeking sanction of the Amended Plan should the Amended Plan be approved by the required majority of Affected Creditors at the Creditors' Meeting; and
- (e) extend the Stay Period (as defined in paragraph 17 of the Initial Order, defined below) until and including June 6, 2016.

Overview of the Amended Plan

3. The Target Canada Entities, with the support of Target Corporation as Plan Sponsor, have developed the Amended Plan to present to their Affected Creditors. A copy of the Amended Plan is attached as Exhibit "A". Capitalized terms not otherwise defined in this Affidavit have the meaning given to them in the Amended Plan. All monetary amounts are in Canadian Dollars, unless otherwise stated.

4. The Amended Plan contemplates that a single class of Affected Creditors will consider and vote on the Amended Plan. The Target Canada Entities propose that the Creditors' Meeting will be held at the Toronto Board of Trade in Toronto, Ontario on May 25, 2016.

5. As described in more detail below, if approved, sanctioned and implemented, the Amended Plan will:

- (a) complete the controlled and orderly wind down of the Target Canada Entities in a timely manner without costly and lengthy litigation and delay;
- (b) effect a compromise, settlement and payment of all Proven Claims in the near term;
- (c) grant releases in favour of the Target Canada Entities and others;
- (d) grant releases in favour of Target Corporation, *but not* in respect of Landlord Guarantee Claims; and
- (e) comply with paragraph 19A of the Initial Order, the Claims Procedure Order and the Court's January 15 Endorsement.

6. The Amended Plan is being put forward by the Target Canada Entities in the expectation that all Persons with an economic interest in the Target Canada Entities will derive a greater benefit from the implementation of the Amended Plan than would result from a bankruptcy.

7. Based on updated information from the Monitor as at April 1, 2016, and subject to the important caveats and limitations below, as well as those important assumptions and qualifications set out in certain of the prior Monitor's reports, including the Monitor's Twenty-Third Report, the Target Canada Entities expect that all Affected Creditors (other than Convenience Class Creditors,¹ Landlord Guarantee Creditors² and Landlord Non-Guarantee Creditors³) will receive approximately 68% to 78% of their Affected Claims that are Proven Claims.⁴

8. I understand that the Monitor will be serving a report prior to the hearing of the Meeting Order motion. I have been informed by the Monitor and believe that the report will

¹ Affected Creditors with Proven Claims less than or equal to \$25,000 in the aggregate will be treated as Convenience Class Creditors and will each be sent a cheque for 100% of their Proven Claims on the Initial Distribution Date. Affected Creditors with Proven Claims in excess of \$25,000 may elect to be treated for all purposes as Convenience Class Creditors, and, if they so elect, will each be sent a cheque for \$25,000. Thus, on the Initial Distribution Date, Convenience Class Creditors will receive the lesser of: (a) 100% of their Proven Claims; and (b) \$25,000.

² For clarity, Landlord Guarantee Claims are Unaffected Claims under the Amended Plan. On the Initial Distribution Date, each Landlord Guarantee Creditor will receive its Landlord Guarantee Creditor Base Claim Amount under the Amended Plan. They will also receive additional amounts in the form of the Landlord Guarantee Enhancement Amounts, as consensually agreed between the Plan Sponsor and the Landlord Guarantee Creditor pursuant to the Landlord Guarantee Creditor Settlement Agreement.

³ Landlord Non-Guarantee Creditors are expected to receive a slightly higher percentage recovery on their Affected Claims – likely in the range of 72% to 82% of their Affected Claims based on the most up-to-date information from the Monitor – as a result of receiving their respective Landlord Non-Guarantee Creditor Equalization Amounts (contributed by the Plan Sponsor), as described below.

⁴ This range is based on an update of the Monitor's recovery analysis used in the Target Canada Entities' press release issued on March 4, 2016 that provided an estimated illustrative range of recovery under the Amended Plan of approximately 66% to 77%.

include an updated illustrative estimated range of recovery analysis for Affected Creditors based on updated information available as at April 1, 2016. The recovery analysis will necessarily be estimated as there remain several Claims that have not yet been finalized for distribution purposes. I understand that the Monitor, in consultation with the Target Canada Entities, is working diligently to resolve those unresolved Claims. For example, the Monitor and Pharmacists' Representative Counsel, in consultation with the Target Canada Entities, are developing a process with the Claims Officer in an effort to efficiently resolve the Disputed Claims of all pharmacist franchisees who have not opted out of representation, all in accordance with the order of this Court dated February 12, 2016. In addition, certain potential creditors such as the Canada Revenue Agency (the "CRA") have filed Claims for unliquidated or unknown amounts. Representatives of the Target Canada Entities and the Monitor are proactively engaged in frequent discussions with the CRA with respect to its Claims. The Monitor, in consultation with the Target Canada Entities, is also working to resolve the remaining Claims pursuant to the Claims Procedure Order.

9. The Target Canada Entities intend to include a letter to Affected Creditors as part of the Meeting Materials (the "**Letter to Creditors**") providing an overview of the Amended Plan and its mechanics, to assist the Affected Creditors in understanding the Amended Plan. A copy of the Letter to Creditors is attached as Exhibit "B".

10. The Amended Plan has several significant changes from the Joint Plan of Compromise and Arrangement dated November 27, 2015 (the "**Original Plan**") that the Target Canada Entities sought to file with the Court in late 2015. A blackline comparing the Amended Plan to the Original Plan is attached as Exhibit "C".

11. The most notable change from the Original Plan is that, to comply with the Court's January 15 Endorsement, the Landlord Guarantee Creditors and Target Corporation have reached a comprehensive agreement, outside of the Amended Plan, that will resolve all Landlord Guarantee Claims and contractually release Target Corporation and others from the Landlord Guarantee Claims.⁵ As a result of this agreement, Target Corporation will *not* receive a release under the Amended Plan in respect of the Landlord Guarantee Claims. The settlement of the Landlord Guarantee Claims is conditional on the approval and implementation of the Amended Plan.

12. The Amended Plan does provide, however, that Target Corporation will receive a full and final release of other matters relating to the Target Canada Entities. The Target Canada Entities believe that this release is justified by the many significant contributions that Target Corporation has already made in these CCAA proceedings – including (1) subordinating the approximately \$3.1 billion NE1 Intercompany Claim against TCC; (2) funding the Employee Trust in the amount of \$95 million; (3) making available DIP financing to TCC to allow TCC to meet payroll and other obligations; and (4) providing ongoing shared services to facilitate the orderly wind down – and the significant additional contributions that Target Corporation will make if the Amended Plan is approved and implemented, as described below.

13. Target Corporation's most significant contribution under the Amended Plan will be to cause or permit the subordination of the vast majority of the Intercompany Claims against TCC in order to maximize the distributions to Affected Creditors. In addition to the \$3.1 billion

⁵ For efficiency and expediency, Target Corporation will be contributing the agreed upon amounts to TCC and the payments to be made to the Landlord Guarantee Creditors on behalf of Target Corporation will be facilitated under the Amended Plan, as described below.

NE1 Intercompany Claim that Target Corporation has already agreed to subordinate in these CCAA proceedings, Target Corporation will, on the Plan Implementation Date, permit the subordination of the Propco Intercompany Claim and certain other Intercompany Claims. Based on information from the Monitor as at April 1, 2016, it is estimated that the subordination of the Propco Intercompany Claim and the other Subordinated Intercompany Claims (not including the NE1 Intercompany Claim) will have a direct economic benefit of approximately \$375 million to the Affected Creditors,⁶ using the approximate mid-point of recovery ranges and subject to certain important assumptions and qualifications set out in certain of the prior Monitor's reports, including the Monitor's Twenty-Third Report.

14. The Target Canada Entities believe that Target Corporation's involvement as Plan Sponsor – including the subordination of these Intercompany Claims – is essential to achieving a successful Plan because it will result in significantly higher recoveries to Affected Creditors than they would receive in bankruptcy proceedings. I have been informed by Mr. Corey Haaland, Senior Vice President, Treasurer of Target Corporation, and believe that Target Corporation would not agree to the subordination of these Intercompany Claims in bankruptcy proceedings.

Background

15. The Target Canada Entities were granted protection from their creditors under the CCAA pursuant to an initial order of the Ontario Superior Court of Justice (Commercial List) dated January 15, 2015 (as amended and restated on February 11, 2015, the “**Initial Order**”).

⁶ Affected Creditors include related parties in respect of Intercompany Claims in the amount of approximately \$131 million, which are not being subordinated.

Alvarez & Marsal Canada Inc. was appointed in the Initial Order to act as the Monitor in the CCAA proceedings. A copy of the Initial Order is attached as Exhibit "D".

16. The Initial Order granted a stay of proceedings until February 13, 2015, or such later date as the Court may order. The Court has since extended the Stay Period (as defined in paragraph 17 of the Initial Order) seven times. Most recently, on March 14, 2016, the Stay Period was extended to April 15, 2016.

17. Further details regarding the background to this proceeding are set out in my Affidavits sworn January 14, 2015 (in respect of the application for the Initial Order) and January 29, May 4, August 7, October 26, November 27, 2015, February 8, 2016 and March 7, 2016 (in respect of past motions to, *inter alia*, extend the Stay Period).

Development of the Amended Plan

18. On November 27, 2015, the Target Canada Entities filed a motion seeking, *inter alia*, to file the Original Plan and authorizing the Target Canada Entities to call and hold a creditors' meeting to vote on it (the "**Original Meeting Order Motion**"). The motion was heard on December 21 and 22, 2015. The background to the development of the Original Plan is set out in my November 27 Affidavit. Representatives of certain landlords (the "**Objecting Landlords**"), who were principally Landlord Guarantee Creditors, opposed the motion.

19. This Court dismissed the motion on January 13, 2016, and released an Endorsement on January 15, 2016 (the "**January 15 Endorsement**"). Among other things, this Court held that filing the Original Plan would violate paragraph 19A of the Initial Order because

the Original Plan sought to compromise the Landlord Guarantee Claims without the consent of such affected Landlords.

20. The background to the development of the Amended Plan is set out in my February 8 and March 7 Affidavits sworn in support of previous motions to extend the Stay Period. Those Affidavits describe the Target Canada Entities' extensive negotiations with the Landlords and with the assistance of the Monitor to reach a framework on a consensual resolution that would preserve Target Corporation's agreement to maintain the subordination contained in the Original Plan, address the Objecting Landlords' concerns, and comply with the Court's January 15 Endorsement.

21. In particular, those Affidavits describe the Target Canada Entities' exhaustive efforts to achieve a consensual global resolution of these CCAA proceedings, including through extensive negotiations and/or consultation with the Monitor, Landlord Guarantee Creditors, Landlord Non-Guarantee Creditors, Target Corporation, the Consultative Committee, trade creditors, and a variety of other unsecured creditors and stakeholders.

22. At a case conference on February 1, 2016, the Target Canada Entities proposed a timetable by which they would seek to achieve a consensual global resolution with the Landlords and, if successful, seek approval of an amended and restated plan. The timetable contemplated, in essence, that unless the Target Canada Entities had executed the necessary agreements (described below) with each of the Landlords by March 4, 2016, the Target Canada Entities would take steps to transition to an alternative bankruptcy process.

23. Over the course of late January and early February 2016, the Target Canada Entities developed a non-binding confidential term sheet (the “**Term Sheet**”) setting out their proposed framework for a global consensual resolution of these CCAA proceedings that would, *inter alia*:

- (a) maintain the Plan Sponsor’s subordination offered in the Original Plan;
- (b) fully and finally settle all Landlord Guarantee Claims at an enhanced level of recovery (compared to the Original Plan) outside of a plan pursuant to a settlement agreement between Target Corporation and the Landlord Guarantee Creditors;
- (c) deliver contractual releases of Target Corporation and others in respect of the Landlord Guarantee Claims;
- (d) obtain the support of the Landlords for an amended and restated plan; and
- (e) enable the Target Canada Entities to seek Court approval to file the amended and restated plan and call a Creditors’ Meeting to vote on such plan.

24. Throughout February, the Target Canada Entities sought input on the Term Sheet from the Monitor, Landlord Guarantee Creditors, Landlord Non-Guarantee Creditors, Target Corporation and the Consultative Committee. The Amended Plan has been refined to incorporate changes of a technical nature since the date of the Term Sheet (with the result that the Term Sheet has been superseded and is reflected in the terms of the Amended Plan), but these changes are not material.

25. The Term Sheet, which was non-binding, included the following key elements:
- (a) Conditional on the execution and delivery of the Landlord Guarantee Creditor Settlement Agreement and the Landlord Non-Guarantee Creditor Consent and Support Agreements, the Plan Sponsor would support the filing of an amended plan that maintains the subordinations offered in the Original Plan.
 - (b) The plan would no longer provide for the use of the Landlord Formula Amount (as defined in the Original Plan); instead, all individual Landlord Restructuring Period Claims would be settled on a consensual basis in accordance with the Claims Procedure Order.
 - (c) TCC would pay 100% of the value of each Landlord Guarantee Creditor's Landlord Guarantee Creditor Base Claim Amount (which, for each Landlord Guarantee Creditor, includes its Landlord Restructuring Period Claim and Pre-filing Claim, if any) on the Initial Distribution Date. This was a change from the Original Plan, which had proposed that: (i) TCC would pay the Landlord's *pro rata* share of the Landlord Formula Amount, and (ii) the Plan Sponsor would pay the Landlord Guarantee Creditor Top-Up Amount (as defined in the Original Plan), resulting in the payment of 100% of the Landlord's Landlord Formula Amount on the Initial Distribution Date. (The Term Sheet also provided that the Plan Sponsor would instead make additional economic contributions to the Landlord Guarantee Creditors, as described below.)

- (d) Landlord Guarantee Creditors as a group would receive an aggregate enhanced economic recovery of approximately \$69.875 million more than they would have received in aggregate under the Original Plan (inclusive of applicable GST/HST), of which:
- (i) approximately \$9.757 million constitutes the increased recovery to Landlord Guarantee Creditors of amounts agreed to with Landlords on their Landlord Restructuring Period Claims in accordance with the Claims Procedure Order (funds to be contributed by TCC);
 - (ii) approximately \$0.586 million constitutes additional Pre-filing Claim recovery over the Original Plan (funds to be contributed by TCC); and
 - (iii) approximately \$59.532 million constitutes the aggregate Landlord Guarantee Enhancement Amount (funds to be contributed by the Plan Sponsor).⁷
- (e) Landlord Non-Guarantee Creditors would be put in the same economic position that they would have been in under the Original Plan, which would be accomplished through the payment of the Landlord Non-Guarantee Creditor

⁷ The entire \$59.532 million is funded or contributed by the Plan Sponsor as follows: (1) before the Plan Implementation Date, the Plan Sponsor will contribute \$25.451 million in cash to be deposited into the Landlord Guarantee Enhancement Cash Pool; and (2) the Plan Sponsor will direct TCC to deposit \$34.081 million into the Landlord Guarantee Enhancement Cash Pool from amounts payable to the Plan Sponsor in respect of Intercompany Claims. Under the Original Plan, this \$34.081 million would have been paid into the TCC Cash Pool for the benefit of all Affected Creditors. Under the Amended Plan, the funding of the \$34.081 million into the Landlord Guarantee Enhancement Cash Pool for the benefit of the Landlord Guarantee Creditors is accomplished by a re-contribution by the Plan Sponsor of amounts payable to it in respect of the Plan Sponsor (Propco) Intercompany Claim and the Property LP (Propco) Intercompany Claim. As such, these Intercompany Claims are effectively subordinated in the Amended Plan, and so in substance are treated in the same manner as under the Original Plan.

Equalization Amounts to be distributed on account of Landlord Non-Guarantee Creditors' Claims. The Plan Sponsor would directly contribute to TCC approximately \$7.521 million (being an effective net contribution of approximately \$4.088 million, after taking into account amounts that would be distributed to the Plan Sponsor out of these funds on account of claims assigned to the Plan Sponsor) to fund the Landlord Non-Guarantee Creditor Equalization Cash Pool, so that such amounts would not be paid out of the TCC Cash Pool and would not dilute the recovery of the other Affected Creditors.⁸

- (f) In the Original Plan, subject to the assumptions and qualifications set out in the Monitor's Twenty-Third Report, the Monitor estimated a range of recovery of approximately 75.3% to 85.3% for Affected Creditors with Proven Claims. Subject to those same assumptions and qualifications, as of February 26, 2016, the Monitor estimated an illustrative range of recovery under the Amended Plan based on the Term Sheet of approximately 66.4% to 76.7% for Affected Creditors with Proven Claims (excluding all Landlord Guarantee Creditors). This would be an estimated reduction of approximately 8.6% to 8.9% from the Original Plan.⁹ As set out above, the Monitor's updated illustrative range of recovery is approximately 68% to 78%, resulting in an estimated reduction of approximately

⁸ The aggregate Landlord Non-Guarantee Creditor Equalization Amount was determined by comparing the estimated recovery under the Original Plan (fixed at 80.1% as the approximate mid-point of the Original Plan Illustrative Range of Recovery) and the estimated recovery under the Amended Plan (fixed at 71.1% as the approximate mid-point of the Amended Plan Illustrative Range of Recovery), based on the Monitor's most up-to-date information as of February 26, 2016.

⁹ The Plan Sponsor is an Affected Creditor in respect of and to the extent of its non-subordinated and subrogated Claims. The Monitor estimated that the Plan Sponsor's additional contribution to the Amended Plan by way of reduced recovery to be approximately \$15.995 million, using the above assumptions and the mid-point of the recovery ranges above. Based on the updated illustrative range of recovery, this amount is approximately \$11.457 million, using the approximate mid-point of the updated recovery ranges.

7% from the Original Plan, subject to the important assumptions and qualifications set out in certain of the prior Monitor's reports, including the Monitor's Twenty-Third Report. The reduction is primarily as a result of the enhancement to Landlord Guarantee Creditors borne by the Affected Creditors required to reach consensual resolution with the Landlord Guarantee Creditors and comply with paragraph 19A of the Initial Order and the January 15 Endorsement.

- (g) As noted above, Target Corporation has already made significant contributions in these CCAA proceedings, including through: (1) subordinating the approximately \$3.1 billion NE1 Intercompany Claim against TCC; (2) funding the Employee Trust in the amount of \$95 million for the benefit of TCC's employees; (3) making available DIP financing to TCC to allow TCC to meet payroll and other obligations; and (4) providing ongoing shared services to facilitate the orderly wind down for which it has not been, and will not be, fully compensated.
- (h) In addition to those contributions that it had already made in these CCAA proceedings, the Plan Sponsor would be making (including by permitting to be made) the following economic contributions to the Amended Plan:
 - (i) a direct economic benefit to the Affected Creditors of approximately **\$371.8 million** using the approximate mid-point of the Amended Plan Illustrative Range of Recovery set out in the Term Sheet, as a result of the subordination of the Subordinated Intercompany Claims other than the NE1 Intercompany Claim. In other words, this direct economic benefit of

approximately \$371.8 million is *in addition to* the direct economic benefit from the subordination of the NE1 Intercompany Claim. Based on the updated illustrative range of recovery, and subject to the important assumptions and qualifications set out in certain of the prior Monitor's reports, including the Monitor's Twenty-Third Report, this amount is approximately \$375 million using the approximate mid-point of updated recovery ranges;¹⁰

- (ii) a Cash contribution of approximately **\$25.451** million towards the aggregate Landlord Guarantee Enhancement Amount and foregone recovery on any subrogated claim in respect of such amount;¹¹
- (iii) a Cash contribution of net approximately **\$4.088** million towards the Landlord Non-Guarantee Creditor Equalization Amount;
- (iv) a Cash contribution of **\$0.700** million towards costs of certain Landlord Guarantee Creditors including settlement of costs issues arising out of the Original Meeting Order Motion; and
- (v) reduced recoveries to Target Corporation of approximately **\$15.995** million described above using the approximate mid-point of the Original

¹⁰ As described below in the context of the Amended Plan, as a matter of mechanics under the Amended Plan, the Property LP (Propco) Intercompany Claim will no longer be subordinated in the manner that it was subordinated under the Original Plan. Instead, the Plan Sponsor will direct TCC to deposit approximately \$34.081 million into the Landlord Guarantee Enhancement Cash Pool from amounts payable to the Plan Sponsor on account of such Intercompany Claim.

Plan Illustrative Range of Recovery set out in the Monitor's Twenty-Third Report and the Amended Plan Illustrative Range of Recovery set out in the Term Sheet. Based on the updated illustrative range of recovery, and subject to the important assumptions and qualifications set out in certain of the prior Monitor's reports, including the Monitor's Twenty-Third Report, this amount is approximately \$11.457 million using the approximate mid-point of updated recovery ranges.

- (i) The Term Sheet set out the key terms of the Landlord Guarantee Creditor Settlement Agreement and the Landlord Non-Guarantee Creditor Consent and Support Agreements, which are further described below.

26. On March 4, 2016, following weeks of extensive discussion and negotiation with the assistance of the Monitor, the Target Canada Entities announced that agreements had been entered into with all of the Landlord Guarantee Creditors and all of the Landlord Non-Guarantee Creditors. The Landlords committed, among other things, to support and vote for the Amended Plan on the terms negotiated.

27. The agreed-upon global resolution involved tough, complex negotiations and the execution of dozens of agreements with 33 different landlord groups in respect of 89 leases in a very short time span. The Target Canada Entities entered into 31 individual and identical Landlord Non-Guarantee Creditor Consent and Support Agreements with 22 different landlord groups holding a total of 52 disclaimed leases. The Target Canada Entities, with the assistance of

¹¹ This contribution is intended to replace the aggregate of the Landlord Guarantee Creditor Top-Up Amounts, which the Monitor valued at approximately \$18 million to \$32 million, proposed under the Original Plan. The figure of \$25.451 million is fixed as the mid-point of that range (*i.e.*, before the actual end-points are rounded).

the Monitor, also organized and facilitated the process by which 10 different sets of landlord counsel, representing landlords holding a total of 37 disclaimed leases, executed the Landlord Guarantee Creditor Settlement Agreement with Target Corporation (and related Acknowledgement and Direction as described below). The various agreements are described below.

I. The Landlord Guarantee Creditor Settlement Agreement

28. The Landlord Guarantee Creditor Settlement Agreement, executed as of March 4, 2016, is an agreement among Target Corporation and each of the Landlord Guarantee Creditors that settles the Landlord Guarantee Claims outside of the Amended Plan in accordance with paragraph 19A of the Initial Order. TCC is not a party to the agreement. The settlement applies to 37 disclaimed leases that were guaranteed directly or indirectly by Target Corporation. A copy of the Landlord Guarantee Creditor Settlement Agreement, without schedules, is attached as Exhibit "E" to this Affidavit. Certain confidential information has been removed or redacted.

29. Landlord Guarantee Creditors will receive payments from two cash pools, in full and final settlement of their Landlord Guarantee Claims and Affected Claims: (i) from the Landlord Guarantee Enhancement Cash Pool, their Landlord Guarantee Enhancement Amounts; and (ii) from the Landlord Guarantee Creditor Base Claim Cash Pool, their Landlord Guarantee Creditor Base Claim Amounts. As noted above, certain of these payments will be facilitated under the Amended Plan with funds contributed by Target Corporation.

30. The Landlord Guarantee Creditor Settlement Agreement provides for, among other things:

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- (a) each Landlord Guarantee Creditor's agreement to vote all of its Claims in favour of the Amended Plan substantially in the form of the Amended Plan attached to the Landlord Guarantee Creditor Settlement Agreement;
- (b) each Landlord Guarantee Creditor's consent to the motions by the Target Canada Entities seeking the Meeting Order and Sanction and Vesting Order;
- (c) a full and final settlement of the Landlord Guarantee Claims outside of the Amended Plan on a consensual basis that complies with paragraph 19A of the Initial Order and the January 15 Endorsement; and
- (d) a full and final contractual release from each Landlord Guarantee Creditor in favour of Target Corporation and all predecessors in interest to the Target Canada Entities, including the HBC Entities, from the Landlord Guarantee Claims.

31. The Landlord Guarantee Creditor Settlement Agreement also requires each Landlord Guarantee Creditor to execute and deliver to TCC an Acknowledgement and Direction that consensually resolves its Landlord Restructuring Period Claim and Pre-filing Claims, if any, in the CCAA proceedings on a consensual basis in accordance with the Claims Procedure Order.

32. The Landlord Guarantee Creditor Settlement Agreement also provides that Target Corporation would make an aggregate payment of \$700,000 towards costs of certain Landlord Guarantee Creditors, including but not limited to the settlement of costs issues arising out of the Original Meeting Order Motion.

33. Given the settlement agreement between Target Corporation and RioCan Real Estate Investment Trust (“**RioCan**”) in respect of the 18 RioCan leases that had been disclaimed during these CCAA proceedings, and the formal notice of assignment of RioCan’s claims in respect of those leases, RioCan and its affiliates are not treated as Landlord Guarantee Creditors under the Landlord Guarantee Creditor Settlement Agreement and will not be participating in the payments to be made to Landlord Guarantee Creditors in accordance with the Landlord Guarantee Creditor Settlement Agreement.

II. The Landlord Non-Guarantee Creditor Consent and Support Agreements

34. TCC executed 31 individual and identical Landlord Non-Guarantee Creditor Consent and Support Agreements each dated March 4, 2016 with 22 different landlord groups in respect of 52 leases that were disclaimed during these CCAA proceedings and were not guaranteed by Target Corporation. These leases include 38 store leases and 14 office and warehouse leases. A copy of a Landlord Non-Guarantee Creditor Consent and Support Agreement, without schedules, is attached as Exhibit “F” to this Affidavit. Certain confidential information has been removed or redacted.

35. Each Landlord Non-Guarantee Creditor Consent and Support Agreement provides for, among other things:

- (a) settlement of the Landlord’s Landlord Restructuring Period Claims and Pre-filing Claims, if any, on a consensual basis, in accordance with the Claims Procedure Order;

- (b) payment of the Landlord Non-Guarantee Creditor Equalization Amount (described below) on the Initial Distribution Date;
- (c) the Landlord's agreement to vote all of its Claims in favour of the Amended Plan substantially in the form of the Amended Plan attached to the Landlord Non-Guarantee Creditor Consent and Support Agreement; and
- (d) the Landlord's consent to the motions by the Target Canada Entities seeking the Meeting Order and Sanction and Vesting Order.

36. Both the Landlord Guarantee Creditor Settlement Agreement and the Landlord Non-Guarantee Creditor Consent and Support Agreements provide that no Landlord will assign any Claims to any third party, other than to a third party who has taken an assignment of all of its Claims (and, in the case of a Landlord Guarantee Creditor, all of its Landlord Guarantee Claims) and executes the required form of joinder agreement.

37. Both the Landlord Guarantee Creditor Settlement Agreement and the Landlord Non-Guarantee Creditor Consent and Support Agreements are conditional on various deadlines and steps relating to the Amended Plan, including the following (when the conditions of both agreements are combined):

- (a) the Target Canada Entities must have amended and restated the Original Plan such that the Amended Plan reflects the terms and conditions set out in the Term Sheet;

- (b) the Target Canada Entities must obtain the proposed Meeting Order, in form and substance satisfactory to TCC and Target Corporation, by April 21, 2016 or such later date as shall be acceptable to TCC, Target Corporation and the Landlords;
- (c) the Amended Plan must have been approved at the Creditors' Meeting by the Required Majority of the Affected Creditors;
- (d) the Target Canada Entities must obtain the Sanction and Vesting Order, in form and substance satisfactory to TCC and Target Corporation, by June 6, 2016 or such later date as shall be acceptable to TCC, Target Corporation and the Landlords, and such Order must become a Final Order; and
- (e) the Plan Implementation Date under the Amended Plan must occur within seven days from the date on which the Sanction and Vesting Order becomes a Final Order.

III. The Plan Sponsor Agreement

38. Attached as Exhibit "G" to this Affidavit is a copy of the agreement between Target Corporation and TCC that is contemplated by section 2.5 of the Amended Plan (the "**Plan Sponsor Agreement**"), which contains Target Corporation's commitment to fund various contributions into the Amended Plan, including amounts required to fund the Landlord Guarantee Enhancement Cash Pool and the Landlord Non-Guarantee Creditor Equalization Cash Pool, and agreement to be bound by the Amended Plan.

39. The Plan Sponsor Agreement provides that if certain conditions under the Landlord Guarantee Creditor Settlement Agreement have not been satisfied by a Landlord

Guarantee Creditor on or before the Plan Implementation Date, then TCC shall not remit any payments to such Landlord Guarantee Creditor until such time as Target Corporation has confirmed that the conditions have been satisfied. Since the execution of the Landlord Guarantee Creditor Settlement Agreement on March 4, 2016, the Target Canada Entities and Target Corporation have worked with the Landlord Guarantee Creditors to ensure these conditions are satisfied. For example, the Landlord Guarantee Creditor Settlement Agreement provides that if a Landlord Guarantee Creditor is not the registered owner of the underlying lands subject to the corresponding Lease (as defined therein) relating to its Landlord Guarantee Claim, then the Landlord Guarantee Creditor shall deliver certain confirmations to Target Corporation such as a copy of the Landlord Guarantee Creditor Settlement Agreement executed by the Registered Owner (as defined therein). I have been advised by Robin Schwill, a lawyer for Target Corporation, that the necessary confirmations have been received from all Landlord Guarantee Creditors.

40. Over the past month, the Target Canada Entities refined the Amended Plan to ensure that the technical aspects of the Amended Plan are satisfactory, and have completed ancillary documentation such as the proposed Meeting Order and the revised Letter to Creditors explaining the Amended Plan. The Target Canada Entities have also continued to engage with trade creditors, other unsecured creditors and other stakeholders in an attempt to build consensus for the Amended Plan and, ultimately, a positive vote at the proposed Creditors' Meeting.

Changes from the Original Plan

41. In an effort to assist in stakeholders' understanding of the Amended Plan, the section below identifies certain significant changes from the Original Plan. The section that then follows describes the key elements of the Amended Plan.

Landlord Claims

42. The Original Plan valued all Landlord Restructuring Period Claims using the Landlord Formula Amount that was initially derived from the formula in section 65.2(4) of the *Bankruptcy and Insolvency Act* and then enhanced to provide a more substantial recovery for Landlords. As a result of the agreements with all Landlord Guarantee Creditors and Landlord Non-Guarantee Creditors that are described above, the Amended Plan no longer uses the Landlord Formula Amount to value Landlord Restructuring Period Claims. Instead, the Landlords and TCC, with the assistance of the Monitor, have consensually agreed to the value, for voting and distribution purposes, of all of the Landlord Restructuring Period Claims, as well as all of the Landlords' Pre-filing Claims, in accordance with the Claims Procedure Order.

43. In addition, under the Amended Plan, Landlord Guarantee Claims are now Unaffected Claims. Target Corporation will not receive a release under the Amended Plan in respect of the Landlord Guarantee Claims. Instead, the Landlord Guarantee Creditors have agreed to contractually release Target Corporation and others from the Landlord Guarantee Claims pursuant to the Landlord Guarantee Creditor Settlement Agreement.

Landlord Guarantee Creditor Base Claim Amounts

44. The Original Plan provided that, on the Initial Distribution Date: (1) TCC would pay each Landlord Guarantee Creditor's *pro rata* share of its Landlord Restructuring Period Claims valued under the Landlord Formula Amount; and (2) Target Corporation would fund enhanced payments that would result in Landlord Guarantee Creditors receiving 100% of their Landlord Formula Amount on the Initial Distribution Date. The Objecting Landlords objected to this manner of valuation on the basis that, among other things, the Landlord Formula Amount did not sufficiently compensate them.

45. The Amended Plan provides, instead, that on the Initial Distribution Date, TCC will pay each Landlord Guarantee Creditor 100% of its Landlord Guarantee Creditor Base Claim Amount – which is an amount that has been consensually agreed to between each Landlord Guarantee Creditor, TCC and the Monitor, in accordance with the Claims Procedure Order.¹² The Landlord Guarantee Creditor Base Claim Amounts include TCC's payments in respect of both the Landlord Restructuring Period Claims *and* Pre-filing Claims of all Landlord Guarantee Creditors. These payments are expected to require approximately \$140.7 million of TCC's Cash. The Amended Plan provides that the Landlord Guarantee Creditor Base Claim Amounts will be distributed from a segregated cash pool – the “Landlord Guarantee Creditor Base Claim Cash Pool” – which will be established from TCC's Cash on the Plan Implementation Date.

¹² The individual Landlord Guarantee Creditor Base Claim Amounts are set out in the Landlord Guarantee Creditor Settlement Agreement and in the Acknowledgment and Directions described above.

Treatment of Intercompany Claims against Propco and Property LP

46. As with the Original Plan, the Amended Plan has been designed to isolate and address Claims against Propco and Property LP, on one hand, and TCC and the remaining Target Canada Entities on a consolidated basis, on the other. And, as with the Original Plan, all of the Intercompany Claims against Propco will be subordinated to the extent necessary to permit all proven Claims of third party Creditors of Propco and Property LP to be paid in full. However, the technical mechanics of the subsequent distributions relating to the Intercompany Claims against Propco have changed. In particular, Property LP's Intercompany Claim against Propco will not be subordinated – though, most importantly, Propco's Intercompany Claim against TCC will still be subordinated in full under the Amended Plan so that Property LP will not thereby have any indirect recovery as against the TCC Cash Pool under the Plan. Furthermore, distributions by Propco in respect of the Property LP (Propco) Intercompany Claim will be re-contributed by the Plan Sponsor such that the Claim remains effectively subordinated.¹³ The mechanics are described below in the context of the distributions from Propco and Property LP.

Landlord Guarantee Enhancement Amounts

47. The Amended Plan also provides that, on the Initial Distribution Date, each Landlord Guarantee Creditor will receive a "Landlord Guarantee Enhancement Amount." This is an amount that has been consensually agreed to between Target Corporation and each Landlord Guarantee Creditor pursuant to the Landlord Guarantee Creditor Settlement Agreement. These

¹³ Target Corporation will contribute \$34.081 million from distributions (that would otherwise be paid to the Plan Sponsor out of the Propco Cash Pool) into the Landlord Guarantee Enhancement Cash Pool for payment to the Landlord Guarantee Creditors. Under the Original Plan, those amounts would have been paid into the TCC Cash Pool.

payments collectively total \$59.532 million, which is the amount of the Landlord Guarantee Enhancement Cash Pool.

48. For efficiency, expediency, and because the payments to Landlord Guarantee Creditors are inextricably tied to the sequence of the Amended Plan steps – and because the Landlord Guarantee Creditor Settlement Agreement provides that payments will be facilitated using the mechanics of the Amended Plan – payments to Landlord Guarantee Creditors on behalf of the Plan Sponsor will be effected by TCC at the same time that TCC pays the Landlord Guarantee Creditor Base Claim Amounts. The Landlord Guarantee Enhancement Cash Pool will be funded in two steps: (1) two days before the Plan Implementation Date, the Plan Sponsor will deliver \$25.451 million to TCC; and (2) on the Initial Distribution Date, the Plan Sponsor will direct TCC to deposit for the benefit of the Plan Sponsor \$34.081 million from distributions payable to the Plan Sponsor out of the Propco Cash Pool, in accordance with the steps in the Amended Plan and as described above.

Landlord Non-Guarantee Creditor Equalization Amounts

49. As noted above, in order to reach a resolution with the Landlords (as required to preserve the Intercompany Claims subordinations for the benefit of stakeholders) – some of which Landlords had disclaimed leases that were guaranteed *and* others that were not – the Landlord Non-Guarantee Creditor Equalization Cash Pool is being established under the Amended Plan to put Landlord Non-Guarantee Creditors in substantially the same position they would have been in under the Original Plan. Target Corporation has agreed to contribute an additional approximately \$7.521 million to fund the Landlord Non-Guarantee Creditor Equalization Cash Pool. Two days before the Plan Implementation Date, Target Corporation will

deliver to TCC the approximately \$7.521 million needed to fund the Landlord Non-Guarantee Creditor Equalization Cash Pool. On the Initial Distribution Date, TCC will distribute the amounts from this cash pool to each Landlord Non-Guarantee Creditor in proportions agreed to between TCC and each Landlord Non-Guarantee Creditor in their respective Landlord Non-Guarantee Creditor Consent and Support Agreements.

Sale of the Pharmacy Shares

50. Target Canada Pharmacy (Ontario) Corp. is a corporation that is able to take advantage of an exemption under section 142(4) of the Ontario *Drug and Pharmacies Regulation Act*, commonly referred to as a “Pre-54” exemption, that allows it to own and operate a retail pharmacy in Ontario if a majority of the directors are licensed pharmacists. I have been advised by Mark Austin of Osler, Hoskin & Harcourt LLP, counsel to the Target Canada Entities, and believe that, pursuant to the Ontario *Drug and Pharmacies Regulation Act*, corporate ownership of pharmacies is otherwise restricted to corporations where the majority of each class of shares is owned by and registered in the name of pharmacists or in the name of pharmacist health profession corporations. This share ownership restriction does not apply to a corporation that operated a pharmacy on May 14, 1954. The Pre-54 exemption is therefore an asset of the estate that has value that should be attempted to be realized for the benefit of the Target Canada Entities’ stakeholders.

51. There has been significant interest expressed in this asset by prospective buyers. The Target Canada Entities and the Monitor intend to commence a process (the “**Pharmacy Sales Process**”) seeking to market and, ultimately, enter into a Pharmacy Share Sale Agreement

to sell the shares of Target Canada Pharmacy (Ontario) Corp. (the “**Pharmacy Shares**”). Attached as Exhibit “H” to this Affidavit is a copy of the Pharmacy Sales Process.

52. TCC and the Monitor previously initiated a sales process in respect of the Pharmacy Shares in February 2015. Notice of the prospective sale of the Pharmacy Shares was published in two prominent online pharmacy trade forums, and significant interest was expressed in this asset by potential buyers. Diligence undertaken in the course of that previous sales process indicated that a sale transaction was impractical and premature at such time (i.e. prior to a calling for and resolution of claims against Target Canada Pharmacy (Ontario) Corp.). Accordingly, the decision was made to suspend the sale process. As the Claims Bar Date in respect of claims against Target Canada Pharmacy (Ontario) Corp. has now passed and the Claims Procedure Order and the Amended Plan provide for the final resolution of any such claims, it is now an appropriate time to re-commence the Pharmacy Sales Process.

53. The Pharmacy Sales Process is intended to identify a purchaser for the Pharmacy Shares (the “**Pharmacy Purchaser**”) before the proposed Plan Sanction hearing. It is contemplated that the Target Canada Entities will bring a motion to be heard on June 2, 2016 asking the Court to issue an approval and vesting Order for the Pharmacy Shares (i.e., separate from the Sanction and Vesting Order for the Amended Plan) that will authorize and approve the execution of a Pharmacy Share Sale Agreement by TCC and declare that all right, title and interest in and to the Pharmacy Shares shall vest absolutely in the Pharmacy Purchaser, free and clear of all Encumbrances (as defined in the Pharmacy Sales Process), which vesting, and the closing of the Pharmacy Shares sales transaction, will occur upon implementation of the Amended Plan.

Release of Consultative Committee

54. The Amended Plan provides that, on the Plan Implementation Date, the Consultative Committee Members will be granted a third party release in a similar manner to Employee Representative Counsel, Pharmacists' Representative Counsel and others. Throughout the past several months, the Consultative Committee has offered significant constructive feedback on the drafts of the Original Plan, the Term Sheet and the Amended Plan and have played a significant role in this proceeding. As noted in TCC's March 4th press release, the Consultative Committee Members support the filing of the Amended Plan.

The Amended Plan

55. As described above, if approved, sanctioned and implemented, the Amended Plan will effect a compromise, settlement and payment of all Proven Claims and will, together with the Landlord Guarantee Creditor Settlement Agreement, complete the controlled and orderly wind down of the Target Canada Entities. Creditors of the Target Canada Entities will either be affected or unaffected by the Amended Plan. On the Plan Implementation Date, each Affected Claim will be fully and finally compromised, released, settled and discharged under the Amended Plan.

56. The Amended Plan includes the following key elements, among others:

- (a) On the Plan Implementation Date, the Target Canada Entities will use all of their Cash to establish the applicable Cash pools and Cash Reserves in accordance with the Amended Plan. The segregation of Propco's cash (to pay Claims against Propco and Property LP) and TCC's cash (to pay Claims against TCC and its

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subsidiaries) will result in the consolidation for Plan purposes of the Target Canada Entities other than Propco and Property LP.

- (b) In addition, TCC will use the approximately \$7.521 million and \$59.532 million contributed by Target Corporation to establish the Landlord Non-Guarantee Creditor Equalization Cash Pool and Landlord Guarantee Enhancement Cash Pool, respectively.
- (c) On or after the Plan Implementation Date, the Subordinated Intercompany Claims will be subordinated in accordance with the Amended Plan. These Claims include the approximately \$3.1 billion NE1 Intercompany Claim (which Target Corporation had previously agreed to subordinate in these CCAA proceedings), the Propco Intercompany Claim and certain other Intercompany Claims.
- (d) Affected Creditors with Proven Claims that are less than or equal to \$25,000 in the aggregate will be deemed to be “Convenience Class Creditors”. Affected Creditors with Proven Claims in excess of \$25,000 can elect to be treated for all purposes as Convenience Class Creditors.
- (e) Distributions will be made to Affected Creditors, as further described below.
- (f) All CCAA Charges¹⁴ will be discharged, except for the Directors’ Charge and Administration Charge, which will continue to attach against the Propco Cash

¹⁴ These include the Financial Advisor Subordinated Charge, the DIP Lender’s Charge and the Liquidation Agent’s Charge and Security Interest. The KERP Charge will also be discharged, as all of the necessary KERP payments have been made.

Pool, the TCC Cash Pool, and the Cash Reserves. Administrative Reserve Costs will be paid from the Administrative Reserve Account.

- (g) The Target Canada Entities and their Directors and Officers, the Monitor, and others, will be released and discharged from all Claims, including any Claims based on any occurrence taking place before the Plan Implementation Date.
- (h) As consideration for Target Corporation's significant economic contributions throughout these CCAA proceedings and under the Amended Plan, Target Corporation, the HBC Entities and other third parties will also be released and discharged from all Claims, *except* for the Landlord Guarantee Claims (which are being addressed outside of the Amended Plan).
- (i) The Target Canada Entities will transfer the remaining IP Assets, including the domain names listed in Schedule "B" to the Amended Plan, to Target Corporation (or its designee).
- (j) The Target Canada Entities will transfer the Pharmacy Shares to the Pharmacy Purchaser and the Directors of Target Canada Pharmacy (Ontario) Corp. will, and will be deemed to have, resigned immediately prior to the closing of such transaction.
- (k) The Employee Trust will be terminated, the Employee Trust Trustee will be discharged and released, and any surplus funds returned to Target Corporation.

Distributions under the Amended Plan**(a) *Claims against Propco and Property LP***

57. On the Plan Implementation Date, TCC will use all of Propco's Cash to establish the Propco Cash Pool Account and the Propco Disputed Claims Reserve Account. On the Initial Distribution Date, TCC will make payments on behalf of Propco from the Propco Cash Pool Account in the following order in accordance with the mechanics in, and provisions of, the Amended Plan:

- (a) First, to third-party Propco Unaffected Creditors with proven Claims against Propco in an amount equal to the value of their proven Claims and to Property LP in an amount equal to the Contributed Claim Amount. These payments are accomplished through the subordination of certain Intercompany Claims and the partial subordination of others.
- (b) Second, to Property LP Creditors on account of the Contributed Claim Amount in an amount equal to their Property LP Unaffected Claims. These payments are also accomplished through the subordination of certain Intercompany Claims and the partial subordination of others.
- (c) Third, on a *pro rata* basis, in partial satisfaction of the following Intercompany Claims: (1) to TCC, on account of the TCC (Pre-filing Propco) Intercompany Claim and the TCC (Post-filing Propco) Intercompany Claim; (2) to the Plan Sponsor, on account of the Plan Sponsor (Propco) Intercompany Claim; and (3) to Property LP, on account of that amount of the Property LP (Propco) Intercompany Claim in excess of the Contributed Claim Amount.

58. Then, on the Initial Distribution Date, in order to in effect implement the subordination contemplated by the Original Plan, the Plan Sponsor will re-contribute some of the funds described in the previous sub-paragraph that were paid in partial satisfaction of the Intercompany Claims, according to the following steps (the “**Plan Sponsor Contribution Waterfall**”):

- (a) First, Property LP will direct TCC on behalf of Propco to pay to the Plan Sponsor any amounts payable to Property LP by Propco in respect of the Property LP (Propco) Intercompany Claim.
- (b) Second, the Plan Sponsor will direct TCC to deposit an amount of approximately \$34.081 million into the Landlord Guarantee Enhancement Cash Pool Account on account of the distributions in respect of the Plan Sponsor (Propco) Intercompany Claim and amounts payable to the Plan Sponsor as directed by Property LP in respect of the Property LP (Propco) Intercompany Claim.
- (c) Third, the Plan Sponsor will direct TCC to deposit any remaining balance of the distribution in respect of the Plan Sponsor (Propco) Intercompany Claim and the amount payable to the Plan Sponsor in respect of the Property LP (Propco) Intercompany Claim into the Plan Sponsor Propco Recovery Limit Reserve Account up to a maximum amount equal to the Plan Sponsor Propco Recovery

Limit (*i.e.*, \$23,427,369) – any undistributed balance of which will ultimately be contributed to the TCC Cash Pool in accordance with the Amended Plan¹⁵.

- (d) Fourth, TCC will deposit into the TCC Cash Pool: (1) all of the distributions that TCC received in respect of its Intercompany Claims against Propco; and (2) the remaining balance of any distributions that the Plan Sponsor received from Propco or at the direction of Property LP after completing the preceding steps in the Plan Sponsor Contribution Waterfall.

59. If a disputed Claim becomes a Propco Unaffected Claim or Property LP Unaffected Claim, TCC will send a cheque to the Creditor for the proven amount. After disputed Claims of Propco Creditors and Property LP Creditors are resolved by the Monitor, TCC will pay the remaining Cash in the Propco Disputed Claims Reserve on behalf of Propco to TCC, the Plan Sponsor and Property LP on a *pro rata* basis on account of the Intercompany Claims against Propco. The distributions will be treated by the applicable parties according to the Plan Sponsor Contribution Waterfall.

(b) ***Claims Against Target Canada Entities other than Propco and Property LP***

60. On the Initial Distribution Date, TCC will: (1) send each Convenience Class Creditor a cheque in the amount of its Convenience Class Claim; and (2) then send each Affected Creditor with a Proven Claim (other than a Convenience Class Creditor or a Landlord Guarantee Creditor in respect of its Landlord Guarantee Creditor Base Claim Amount) a cheque in an

¹⁵ Amounts will only be paid from the Plan Sponsor Recovery Limit Reserve Account to the Plan Sponsor in essentially the same proportion, and on the same dates, that TCC makes distributions to Affected Creditors that are not Convenience Class Creditors or Landlord Guarantee Creditors. The remaining amounts in the account will ultimately be deposited in the TCC Cash Pool Account as a contribution by the Plan Sponsor to TCC.

amount equal to the Creditor's Pro Rata Share of the remaining Cash in the TCC Cash Pool Account.

(c) ***Landlord Non-Guarantee Creditor Equalization Amount***

61. On the Initial Distribution Date, in addition to the payment to Landlord Non-Guarantee Creditors for their Pro Rata Share of their Affected Claims, TCC will send each Landlord Non-Guarantee Creditor a cheque from the Landlord Non-Guarantee Creditor Equalization Cash Pool Account in an amount equal to the Landlord's "Landlord Non-Guarantee Creditor Equalization Amount". As described above, this payment is intended to put Landlord Non-Guarantee Creditors in essentially the same position under the Amended Plan that they were expected to be under the Original Plan.

(d) ***Landlord Guarantee Creditors***

62. On the Initial Distribution Date, TCC will send each Landlord Guarantee Creditor:

- (a) a cheque in an amount equal to each Landlord Guarantee Creditor's Landlord Guarantee Creditor Base Claim Amount from the Landlord Guarantee Creditor Base Claim Cash Pool Account; and
- (b) in accordance with the Landlord Guarantee Creditor Settlement Agreement, a cheque in an amount equal to each Landlord Guarantee Creditor's Landlord Guarantee Enhancement Amount, from the Landlord Guarantee Enhancement Cash Pool Account. (This payment will be made by TCC on behalf and for the

account of the Plan Sponsor in satisfaction of the Plan Sponsor's obligations under the Landlord Guarantee Creditor Settlement Agreement.)

(e) ***Resolution of Disputed TCC (and other Target Canada Entity) Creditor Claims and Subsequent Distributions***

63. From and after the Initial Distribution Date, as frequently as the Monitor may determine in its discretion, TCC will distribute to:

(a) each Affected Creditor (other than a Convenience Class Creditor or a Landlord Guarantee Creditor in respect of its Landlord Guarantee Creditor Base Claim Amount) with a Disputed Claim that has become a Proven Claim in whole or in part, an amount of Cash from the TCC Disputed Claims Reserve Account equal to the aggregate amount of all distributions such Affected Creditor would have otherwise already received pursuant to the Amended Plan had its Disputed Claim been a Proven Claim as of the Initial Distribution Date. Any remaining balance in the TCC Disputed Claims Reserve Account relating to such Affected Creditor's Disputed Claim will be deposited into the TCC Cash Pool Account; and

(b) each Affected Creditor (other than a Convenience Class Creditor or a Landlord Guarantee Creditor in respect of its Landlord Guarantee Creditor Base Claim Amount) with a Proven Claim, an amount equal to such Affected Creditor's respective Pro Rata Share of the Cash in the TCC Cash Pool Account.

64. On the Final Distribution Date, once TCC has effected all previous distributions pursuant to the Amended Plan and there are no remaining Disputed Claims and following the

deposit of any remaining balance in the Plan Sponsor Propco Recovery Limit Reserve Account to the TCC Cash Pool Account:

- (a) TCC will pay any final Administrative Reserve Costs;
- (b) TCC will then contribute any balance remaining in the Administrative Reserve Account and the TCC Disputed Claims Reserve Account to the TCC Cash Pool Account; and
- (c) TCC will then distribute to the Affected Creditors (other than Convenience Class Creditors or a Landlord Guarantee Creditor in respect of its Landlord Guarantee Creditor Base Claim Amount) with Proven Claims such Affected Creditor's respective Pro Rata Share of any remaining Cash in the TCC Cash Pool Account.
- (f) ***Assignment of Claims for Distribution Purposes***

65. An Affected Creditor (other than a Convenience Class Creditor and, in the case of a Landlord, subject to the specific restrictions in the Amended Plan¹⁶) may transfer or assign the whole or part of its Claim for distribution purposes in accordance with the procedures in the Amended Plan.

(g) ***Withholding Taxes***

66. TCC is entitled to deduct and withhold and remit from any distribution such amounts as are required by applicable law, including the *Income Tax Act*, for payment to the

¹⁶ The Amended Plan provides that a Landlord Guarantee Creditor or a Landlord Non-Guarantee Creditor may only assign any Claim in accordance with the terms of the Landlord Guarantee Creditor Settlement Agreement or a Landlord Non-Guarantee Creditor Consent and Support Agreement, as applicable.

applicable Taxing Authority (e.g., the CRA). All payments made to non-residents of Canada pursuant to the Amended Plan shall be paid net of applicable withholding taxes.

(h) *Input Tax Credits*

67. If the Plan Sponsor pays GST/HST on amounts in respect of a Landlord Guarantee Claim for which only the Target Canada Entities (and not the Plan Sponsor) receive Input Tax Credits, then, if and when the Target Canada Entities receive actual payments of Input Tax Credits, TCC will reimburse the Plan Sponsor in accordance with the Amended Plan.

Conditions Precedent

68. The implementation of the Amended Plan is conditional upon the fulfilment or waiver, where applicable, of various conditions precedent, including, among others:

- (a) each of the Landlord Guarantee Creditors and the Plan Sponsor shall have executed and delivered the Landlord Guarantee Creditor Settlement Agreement and each of the Landlord Non-Guarantee Creditors and TCC shall have executed and delivered a Landlord Non-Guarantee Creditor Consent and Support Agreement, which agreements shall be in full force and effect;
- (b) the Meeting Order shall have been granted by the Court on or before **April 21, 2016**, or such later date as shall be acceptable to TCC in consultation with the Monitor, and shall have become a Final Order;

- (c) the Creditors' Meeting to consider and vote on the Amended Plan shall have been convened by the date set by the Meeting Order or such later date as shall be acceptable to TCC in consultation with the Monitor;
- (d) the Amended Plan shall have been approved by the Required Majority of the Affected Creditors forming the Unsecured Creditors' Class at the Creditors' Meeting;
- (e) the Sanction and Vesting Order shall have been granted by the Court by **June 6, 2016**, or such later date as shall be acceptable to TCC, in consultation with the Monitor, in form satisfactory to the Target Canada Entities, the Plan Sponsor and the Monitor, and shall have become a Final Order; and
- (f) the Plan Implementation Date shall have occurred by the date that is seven days from the date on which the Sanction and Vesting Order becomes a Final Order, which in no event shall be later than **July 29, 2016**.

69. The deadlines for these steps take into account the deadlines set out in the Landlord Guarantee Creditor Settlement Agreement and the Landlord Non-Guarantee Creditor Consent and Support Agreements.

The Proposed Meeting Order

70. The proposed Meeting Order authorizes the Target Canada Entities to convene a meeting of a single class of Creditors comprised of all Affected Creditors, the "Unsecured Creditors' Class", to consider and vote on the Amended Plan. The Target Canada Entities

propose that the Creditors' Meeting be held at the Toronto Board of Trade on May 25, 2016. Capitalized terms in this section that are not otherwise defined have the meaning given to them in the proposed Meeting Order.

(a) ***Notification***

71. The Meeting Order provides for comprehensive notification of the Creditors' Meeting to the Affected Creditors. It is proposed that the Monitor will:

- (a) send the Meeting Materials, including the Letter to Creditors, to Affected Creditors by April 21, 2016;
- (b) forthwith post a copy of the Meeting Materials to the Website that the Monitor is maintaining for these CCAA proceedings; and
- (c) cause the Notice of Creditors' Meeting to be published for two Business Days in each of *The Globe and Mail*, *La Presse* and *The Wall Street Journal* on or before April 27, 2016.

(b) ***Conduct of the Creditors' Meeting***

72. The Meeting Order provides that a representative of the Monitor will preside as the Chair of the Creditors' Meeting and, subject to any further Order of this Court, will decide all matters relating to the conduct of the Creditors' Meeting. The Monitor may appoint scrutineers for the supervision and tabulation of the attendance at, quorum at and votes cast at the Creditors' Meeting. A Person designated by the Monitor will act as secretary at the Creditors' Meeting.

73. The only Persons entitled to attend and speak at the Creditors' Meeting are representatives of the Target Canada Entities and the Plan Sponsor and their respective legal counsel and advisors, the Monitor and its legal counsel and advisors, Employee Representative Counsel, the Employee Trust Trustee and his legal counsel, Pharmacists' Representative Counsel and all other Persons, including the holders of Proxies, entitled to vote at the Creditors' Meeting and their respective legal counsel and advisors. Any other Person may be admitted to the Creditors' Meeting on invitation of the Chair.

(c) ***Voting***

74. The voting procedures were designed to provide a fair and equitable opportunity for Affected Creditors to register their votes for or against the Amended Plan. The Meeting Order and the Amended Plan provide, *inter alia*:

- (a) The Chair will direct a vote on the Resolution to approve the Amended Plan and any amendments or variations thereto made in accordance with the Amended Plan and the Meeting Order.
- (b) The quorum required at the Creditors' Meeting will be one Affected Creditor with a Voting Claim present at such meeting in person or by Proxy.
- (c) An Affected Creditor will be permitted to attend the Creditors' Meeting in person or may appoint another person to attend the Creditors' Meeting as its proxyholder in accordance with the process provided in the Meeting Order. The Meeting Order contains provisions outlining the requirements for voting by Proxy, and sets out the procedure and deadlines for submitting a Proxy.

- (d) Each Affected Creditor with a Voting Claim will be entitled to one vote equal to the dollar value of its Affected Claim determined as a Voting Claim in accordance with the Claims Procedure Order and the Meeting Order.¹⁷
- (e) An Affected Creditor holding a Disputed Claim will be entitled to attend the Creditors' Meeting and be entitled to one vote, which will have the dollar value as set out in the Notice of Revision or Disallowance that the Monitor has sent to the Affected Creditor.¹⁸ Where a Claim has been disallowed in its entirety by the Monitor but is a Disputed Claim, the voted amount will be \$0. The Monitor will keep a separate record of votes cast by Affected Creditors holding Disputed Claims and will report to the Court with respect thereto at the Plan Sanction Hearing.
- (f) Each Convenience Class Creditor will be deemed to have voted in favour of the Amended Plan.
- (g) An Affected Creditor may transfer or assign the whole of its Claim prior to the Creditors' Meeting for voting purposes, provided that neither the Target Canada Entities nor the Monitor will be obligated to give notice to or otherwise deal with

¹⁷ Unless otherwise provided by the Amended Plan or the Sanction and Vesting Order, for the purposes of voting, a Claim will be denominated in Canadian dollars. Any Claim in a currency other than Canadian dollars will be regarded as having been converted at the noon spot rate of exchange quoted by the Bank of Canada for exchanging such currency to Canadian dollars as at the Filing Date. For Claims denominated in US dollars, the rate is US\$1:Cdn\$1.1932. An Affected Creditor's Voting Claim will not include fractional numbers and Voting Claims will be rounded down to the nearest whole Canadian Dollar amount.

¹⁸ Pursuant to the proposed Meeting Order, the CRA shall have one vote in respect of its Disputed Claims, the dollar value of which shall be \$1 for voting purposes.

the transferee or assignee unless the transferee or assignee has complied with the procedures in the Amended Plan and Meeting Order.¹⁹

- (h) Certain Persons are not entitled to vote on the Amended Plan, including Persons holding Unaffected Claims (in respect of their Unaffected Claims) and Intercompany Claims. Pursuant to the Amended Plan, a Person who has a Claim under a Guarantee in respect of any Claim which is compromised under the Amended Plan (such compromised Claim being the “**Principal Claim**”), or who has any right to or claim over in respect of or to be subrogated to the rights of any Person in respect of the Principal Claim will not be entitled to vote on the Amended Plan to the extent that the Person holding the Principal Claim is voting on the Amended Plan. Target Corporation is not entitled to vote in respect of its Plan Sponsor Subrogated Claims, any Cash Management Lender Claim held by it, or any amounts to be contributed to the Landlord Guarantee Enhancement Cash Pool and to the Landlord Non-Guarantee Creditor Equalization Cash Pool under the Amended Plan.

(d) *Amendments to the Amended Plan*

75. The Meeting Order provides that the Target Canada Entities, with the consent of the Plan Sponsor and the Monitor, are authorized to make and to file any Plan Modification prior to or at the Creditors’ Meeting, in which case any such Plan Modification will form part of and

¹⁹ Where a Claim has been transferred or assigned in part, the transferor or assignor will retain the right to vote at the Creditors’ Meeting in respect of the full amount of the Claim, and the transferee or assignee will have no voting rights at the Creditors Meeting in respect of such Claim.

be incorporated into the Amended Plan. The Meeting Order also deals with how post-meeting amendments can be effected.

(e) *Approval and Court Sanction of the Amended Plan*

76. To be approved, the Amended Plan must receive an affirmative vote by the Required Majority. The proposed Meeting Order provides that the Monitor will serve its report on the Amended Plan by May 11, 2016 in advance of the Creditors' Meeting. Following the vote at the Creditors' Meeting, the Monitor will tally the votes and determine whether the Amended Plan has been approved by the Required Majority. The results of the Creditors' Meeting will be binding on all Affected Creditors, whether or not any such Affected Creditor is present or voting at the Creditors' Meeting

77. In the event that the Amended Plan is approved by the Required Majority, the Target Canada Entities have reserved June 2, 2016 for a motion seeking an Order sanctioning the Amended Plan under the CCAA.

78. The Monitor will provide a report to the Court as soon as practicable after the Creditors' Meeting with respect to: (i) the results of voting at the Creditors' Meeting on the Resolution; (ii) whether the Required Majority has approved the Amended Plan; (iii) the separate tabulation for Disputed Claims; and (iv) in its discretion, any other matter relating to the Target Canada Entities' motion seeking sanction of the Amended Plan. A copy of the Monitor's Report will be posted on the Monitor's website prior to the Sanction Motion.

Extending the Notice of Objection Bar Date

79. On March 14, 2016, the Court extended the Notice of Objection Bar Date²⁰ to 28 days following April 15, 2016 or such later date as the Court may Order. As the Target Canada Entities' are seeking to move forward with an Amended Plan that would resolve all issues related to Intercompany Claims, the draft Meeting Order seeks to extend the Notice of Objection Bar Date to 28 days following June 6, 2016. This extension will avoid the need for parties to incur costs that may ultimately be unnecessary if the Amended Plan is approved by the creditors and sanctioned by this Court.

Stay Extension

80. The Target Canada Entities are seeking to extend the Stay Period (as defined in paragraph 17 of the Initial Order) up to and including June 6, 2016. I am advised by the Monitor that the Target Canada Entities have sufficient cash resources to meet their post-filing obligations beyond June 6, 2016. I understand that the Monitor will file an updated cash flow forecast with the Court prior to the hearing of this motion.

81. I believe that the Target Canada Entities have acted, and continue to act, in good faith and with due diligence in pursuing the controlled and orderly wind down of their businesses. In particular, the Target Canada Entities have worked diligently to develop the Amended Plan, which is expected to provide finality and certainty in these CCAA proceedings and significant recoveries to Creditors. An extension of the stay of proceedings is necessary to allow the Affected Creditors to consider and vote on the Amended Plan and, if they approve it, to

²⁰ Unless stated otherwise, capitalized terms in this section have the meaning given to them in the Claims Procedure Order dated June 11, 2015, as amended. The Notice of Objection Bar Date is the deadline by which

permit the Target Canada Entities to bring the motion asking the Court to sanction the Amended Plan.

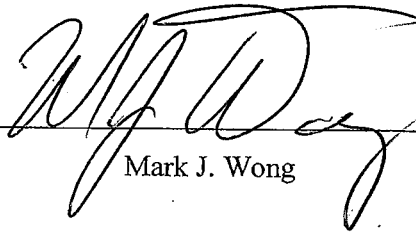
82. I am informed by the Monitor that it supports the request to extend the Stay Period to June 6, 2016.

SWORN BEFORE ME at the City of
Toronto, on the 6th day of April, 2016.



Commissioner for taking Affidavits

ROBERT ANDREW CARSON



Mark J. Wong

SCHEDULE A**Partnerships**

1. Target Canada Pharmacy Franchising LP
2. Target Canada Mobile LP
3. Target Canada Property LP