

*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

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**MOTION RECORD OF THE APPLICANTS**

**(Motion for Approval of Lease Transfer Agreement with  
Canadian Tire Real Estate Limited)**

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May 8, 2015

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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**

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

**NOTICE OF MOTION**

**(Motion for Approval of Lease Transfer Agreement with  
Canadian Tire Real Estate Limited)**

The Applicants will make a motion before a judge of the Ontario Superior Court of Justice (Commercial List) on May 19, 2015 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 4 of the Motion Record, *inter alia*, approving the Lease Transfer Agreement entered into as of May 5, 2015 between Canadian Tire Real Estate Limited ("**Canadian Tire**") and Target Canada Co. ("**TCC**"), and vesting TCC's right, title and interest in and to the Subject Assets (as defined in the Lease Transfer Agreement) in Canadian Tire.
2. Such further and other relief as this Court may deem just.

**THE GROUNDS FOR THE MOTION ARE:**

1. The Applicants and Partnerships listed on Schedule A to the Approval and Vesting Order (collectively, 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;
2. Alvarez & Marsal Canada Inc. was appointed to act as the Monitor (the “**Monitor**”) in the CCAA proceeding;
3. On February 11, 2015, the Court approved a process (the “**Real Property Portfolio Sales Process**”) by which the Target Canada Entities, with the assistance of TCC’s financial advisor, Lazard Frères & Co. LLC, and under the supervision of the Monitor, would seek to sell all or substantially all of TCC’s leases and real property;
4. TCC, as assignor, and Canadian Tire, as assignee, have entered into the Lease Transfer Agreement, pursuant to which TCC has agreed to sell to Canadian Tire all of TCC’s rights, title and interest in TCC’s leases and certain other ancillary assets in respect of the following twelve properties: Aurora Shopping Centre (Aurora, ON), Sudbury Supermall (Sudbury, ON), Northwest Centre (Moncton, NB), Bayers Lake Power Centre (Halifax, NS), Le Carrefour Rimouski (Rimouski, QC), Place Alexis Nihon (Westmount, QC), Place Versailles Shopping Centre (Montreal, QC), Driftwood Mall (Courtenay, BC), Tamarack Mall (Cranbrook, BC), Village Green Mall (Vernon, BC), Hillside Mall (Victoria, BC) and Grant Park (Winnipeg, MB);
5. The process leading to the Lease Transfer Agreement was fair and reasonable in the circumstances and was approved by the Monitor;
6. The consideration to be received in the transaction is fair and reasonable;
7. The landlords of each of the subject leases have consented to the Lease Transfer Agreement;
8. The Lease Transfer Agreement is in the best interests of the creditors and other stakeholders of the Target Canada Entities;

9. The relief sought on this motion is supported by the Monitor;
10. The provisions of the CCAA, including section 36 thereof, and the inherent and equitable jurisdiction of this Honourable Court;
11. Rules 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
12. Such further and other grounds as counsel may advise and this Court may permit.

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

1. The Affidavit of Mark J. Wong sworn May 8, 2015 and the exhibits attached thereto;
2. The Report of the Monitor, to be filed; and
3. Such further and other evidence as counsel may advise and this Court may permit.

May 8, 2015

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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

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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 May 8, 2015)**

**(Motion for Approval of Lease Transfer Agreement with  
Canadian Tire Real Estate Limited)**

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 for 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 members of the senior management team of TCC, legal, financial and other advisors of 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 Partnerships listed on Schedule A (the “**Target Canada Entities**”) seeking an Order, substantially in the form attached to the Motion Record, approving the Lease Transfer Agreement dated May 5, 2015 (the “**Lease Transfer Agreement**”) between TCC, as assignor, and Canadian Tire Real Estate Limited (“**Canadian Tire**”), as assignee, relating to the leases held by TCC at the following twelve properties (collectively, the “**Twelve Leases**”):

<b>Property</b>	<b>City</b>
Aurora Shopping Centre	Aurora, ON
Sudbury Supermall	Sudbury, ON
Northwest Centre	Moncton, NB
Bayers Lake Power Centre	Halifax, NS
Le Carrefour Rimouski	Rimouski, QC
Place Alexis Nihon	Westmount, QC
Place Versailles Shopping Centre	Montreal, QC
Driftwood Mall	Courtenay, BC
Tamarack Mall	Cranbrook, BC
Village Green Mall	Vernon, BC
Hillside Mall	Victoria, BC
Grant Park	Winnipeg, MB

3. The consideration that TCC will receive in this proposed transaction is approximately CDN \$17.7 million. I am advised by Ms. Mia Cooper of Canadian Tire and believe that Canadian Tire has obtained all of the necessary consents from the landlords to the assignment of the Twelve Leases. The Target Canada Entities understand that Canadian Tire has separately negotiated and entered into agreements with the relevant landlords relating to certain requested amendments to the Twelve Leases.

4. The Target Canada Entities believe that this transaction is in the best interests of the Target Canada Entities and their stakeholders and the consideration to be paid in respect of the transaction is fair and reasonable. This transaction increases the certainty of realizing upon the value of these assets, since the same consideration might not have been available had these leases gone to an auction or if the assets had not been a part of an *en bloc* transaction with Canadian Tire. Similarly, the fact that landlord consent to this transaction has been obtained in the case of each of the properties significantly increases the certainty that the full value of the transaction will be realized.

### **Background regarding the Real Property Portfolio Sales Process**

5. The leases which are the subject of the Lease Surrender Agreement are in respect of the following properties as summarized in the following chart:

<b>Property</b>	<b>City</b>	<b>Landlord</b>	<b>Size of Store (square feet)</b>	<b>Lease Expiration</b>	<b>Options Remaining, Outside Expiration</b>
Aurora Shopping Centre	Aurora, ON	Morguard Realty Holdings Inc.	124,000	11/17/2021	15 options, 11/17/2096
Sudbury Supermall	Sudbury, ON	Riocan Holdings (Sudbury) Inc.	113,698	12/31/2016	13 options, 1/31/2077

Northwest Centre	Moncton, NB	Northwest Plaza Ltd.	110,453	10/18/2018	11 options, 10/18/2073
Bayers Lake Power Centre	Halifax, NS	Canadian Property Holdings (Nova Scotia) Inc.	111,686	4/24/2018	9 options, 4/23/2063
Le Carrefour Rimouski	Rimouski, QC	9130-1168 Quebec Inc.	93,767	8/06/2019	12 options, 8/06/2079
Place Alexis Nihon	Westmount, QC	Cominar Real Estate Investment Trust	111,089	11/07/2018	15 options, 11/07/2093
Place Versailles Shopping Centre	Montreal, QC	Place Versailles Inc.	90,158	3/21/2023	5 options, 3/21/2073
Driftwood Mall	Courtenay, BC	Driftwood Mall Ltd. and 5275 Investment Ltd.	107,177	5/04/2023	10 options, 5/04/2073
Tamarack Mall	Cranbrook, BC	Pellex Holdings Ltd.	100,242	6/14/2023	6 options, 6/14/2083
Village Green Mall	Vernon, BC	OPTrust Retail Inc.	103,615	10/01/2022	11 options, 10/01/2072
Hillside Mall	Victoria, BC	Hillside Centre Holdings Inc.	146,945	9/30/2024	10 options, 9/30/2074
Grant Park	Winnipeg, MB	Grant Park Adventures Inc.	125,289	8/10/2016	18 options, 1/31/2102

### **Background regarding the Real Property Portfolio Sales Process**

6. 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. Further details regarding the background to this proceeding are set out in my Affidavits sworn January 14, January 29, February 9 and May 4, 2015.

7. On February 11, 2015, the Court approved the Real Property Portfolio Sales Process by which the Target Canada Entities, with the assistance of TCC's financial advisor,

Lazard Frères & Co. LLC (“**Lazard**”), and the Monitor, are seeking to sell all or substantially all of TCC’s leases and real property under the supervision of the Court and the Monitor. A copy of the Real Property Portfolio Sales Process is attached as Exhibit “A”.

8. A comprehensive description of the Real Property Portfolio Sales Process is set out in my affidavits dated January 29 and February 9, 2015.

9. In general terms, the Target Canada Entities and Lazard, in consultation with the Monitor, designed the Real Property Portfolio Sales Process to be flexible in order to maximize the value of TCC’s real estate portfolio for the benefit of the Target Canada Entities’ stakeholders. The process was designed to occur in two phases. Phase 1 included providing initial diligence materials and soliciting indications of interest from prospective purchasers and culminated in the receipt of letters of intent. Phase 2 included the provision of additional diligence materials and culminated in the submission of binding proposals (referred to as “**Qualified Bids**”) from prospective purchasers, negotiations with Qualified Bidders, and, for some of the subject leases and properties, one or more auctions in which all Qualified Bidders are allowed to participate. However, the process was designed to give TCC, with the assistance of Lazard and the Monitor, the flexibility to negotiate and consummate a transaction at any point in the sales process, including either before the submission of LOIs, before the Qualified Bid Deadline, before the auction or at the auction.

10. The current status of the Real Property Portfolio Sales Process is described in detail in my Affidavit sworn May 4, 2015 (in support of the Target Canada Entities’ stay extension motion) and in the Eighth Report of the Monitor dated April 30, 2015. Except where

so stated, capitalized terms not otherwise defined herein have the meaning ascribed to them in that Affidavit or in the Lease Transfer Agreement.

### **Background to Canadian Tire's Bid**

11. Commencing in early February, Lazard contacted approximately 360 prospective purchasers and provided most of them with a "teaser" document outlining the process and providing a form of confidentiality agreement. TCC entered into confidentiality agreements with approximately 70 different parties, all of whom received select access to an electronic data room containing information relating to TCC's real estate portfolio and a confidential information memorandum ("CIM") describing the opportunity. The Twelve Leases were described in the CIM.

12. In March 2015, 56 letters of intent ("LOIs") were submitted by interested third parties (including landlords) across TCC's lease portfolio. Lazard thereafter engaged in discussions with interested parties about the properties in TCC's lease portfolio – irrespective of whether LOIs were received – and facilitated certain calls between landlords and interested third parties. Lazard actively encouraged the submission of Qualified Bids or other offers. During this period, Lazard had numerous discussions with Canadian Tire and other interested parties about the Twelve Leases (and other properties) in an effort to secure Qualified Bids or other offers.

13. On April 23, 2015, Canadian Tire submitted a Qualified Bid in respect of the Twelve Leases in which Canadian Tire offered to purchase all of TCC's right, title and interest in the Twelve Leases, Realty Tax Appeals and the FF&E at the Premises, on the terms and conditions set out in Canadian Tire's proposed form of lease transfer agreement. Canadian Tire's

Qualified Bid was made irrevocable until May 4, 2015 and was conditional on any required amendments to the Twelve Leases being agreed to between Canadian Tire and the respective landlords by May 5, 2015.

14. Following the Qualified Bid Deadline, Lazard continued to negotiate with Canadian Tire to see if a transaction based on a Qualified Bid could be consummated. Lazard and the Target Canada Entities, in consultation with the Monitor, considered whether it would be more advantageous to complete a transaction for the Twelve Leases before the auction.

15. As a part of this process, Lazard facilitated discussions and negotiations between Canadian Tire and the landlords of each of the Properties in respect of the Twelve Leases. As stated, the transaction is on consent of the landlords of each of the properties.

16. Certain of the Twelve Leases contain provisions concerning a variety of matters that I understand may have impacted Canadian Tire's ability to operate retail stores at the Premises. As a result of negotiations between Canadian Tire and certain of the landlords, Canadian Tire and the relevant landlords have agreed to amendments to certain of the Twelve Leases as required in order for Canadian Tire to use the respective Premises for its purposes.

17. After receiving confirmation that Canadian Tire was well advanced in its negotiations with the landlords, and after considering TCC's lease portfolio in its totality, and other information then at hand, including the interest being expressed by other third parties (including landlords) and the consideration being offered (which was all or nothing, and significant for the estate), TCC elected to enter into a transaction with Canadian Tire for the

Twelve Leases in advance of the auction. In the view of TCC and Lazard, the purchase price being offered was fair and reasonable in the circumstances.

18. In arriving at this decision, the Target Canada Entities took into consideration that Qualified Bids for certain of the Twelve Leases had been received from other third parties, and whether TCC could realize a greater total aggregate return on these assets by pursuing separate transactions for the Twelve Leases. Lazard had explored with Canadian Tire the concept of removing one or more of the Twelve Leases from the transaction. However, over the course of negotiations, Canadian Tire made clear that its offer was conditional on all of the Twelve Leases, and each of them, being included as subject assets in the Lease Transfer Agreement.

19. Given Canadian Tire's position, and in light of the value of the respective Qualified Bids for certain of the Twelve Leases received from the other third parties, Lazard formed the view that the total aggregate consideration from a transaction with Canadian Tire for all of the Twelve Leases would likely be greater than the consideration that TCC could expect to receive if it proceeded to auction in an attempt to sell certain of the assets individually. In addition, none of the respective landlords object to a transfer of the Twelve Leases to Canadian Tire, and Canadian Tire and the landlords have been able to negotiate any required amendments to the Twelve Leases. Additionally, there was no assurance that the consent of the landlords to a transaction could be obtained with respect to any other Qualified Bidder. In the circumstances, a transaction for all of the Twelve Leases *en bloc* increases the certainty of maximizing the value of these assets.

20. As a part of its decision to enter into a transaction with Canadian Tire for the Twelve Leases, TCC, in consultation with Lazard, considered a number of additional benefits of

the transaction. Among these significant benefits was the opportunity to facilitate a separate transaction in respect of other real property assets between TCC and another third party, namely Lowe's Companies Canada, ULC ("**Lowe's**").

21. More specifically, over the course of negotiations between TCC, Lazard and Lowe's, Lowe's alerted Lazard that certain of the landlords of the properties in respect of which Lowe's had expressed interest had advised Lowe's that they were unable and/or not prepared to consent to the transfer of leases to Lowe's due to certain restrictive covenants which they had made in favour of their existing tenant, Canadian Tire. TCC and Lazard engaged with Canadian Tire on this issue, and Canadian Tire agreed as part of the Lease Transfer Agreement to permit Lowe's to operate a big box home improvement store, subject to certain conditions, in respect of two specific locations, and to use commercially reasonable efforts to amend its rights under existing restrictive covenants to permit any third party assignees to operate a big box home improvement store, subject to certain conditions, in respect of two other specific locations. This important deal point facilitated a transaction between TCC and Lowe's.

22. Other important benefits of the transaction with Canadian Tire that TCC and Lazard considered include the following:

- (a) Canadian Tire has represented that it has the financial ability to close the transaction and is otherwise qualified to perform its obligations under each of the Twelve Leases that it will assume from TCC; and
- (b) The assignment of the Twelve Leases to Canadian Tire will minimize the amount of time that the Premises remain vacant.



23. It is my understanding that the Monitor approved the process leading up to the proposed transaction and the terms of the Lease Transfer Agreement, and supports the Target Canada Entities' motion seeking approval of the Lease Transfer Agreement.

### **The Lease Transfer Agreement**

24. On May 5, 2015, TCC and Canadian Tire entered into the Lease Transfer Agreement, a copy of which is attached as Exhibit "B". The Lease Transfer Agreement provides for, among other things, the following:

- (a) Canadian Tire will pay the Purchase Price of CDN \$17,654,000.00, exclusive of all taxes. The Purchase Price is subject to certain adjustments as set out in the Agreement of Purchase and Sale, which adjustments will be final and not subject to readjustment. This allows for final settlement of TCC's obligations relating to the Subject Assets, giving certainty of result.
- (b) Canadian Tire has paid a Deposit equal to CDN \$2,500,000.00 to be held by the Monitor, as escrow agent. Upon Closing, the Deposit will be paid to TCC and applied to the Purchase Price. If the Closing does not occur solely by reason of a breach by Canadian Tire of any of its representations, warranties or covenants or other default of Canadian Tire, the full amount of the Deposit together with all accrued interest earned thereon, shall become the property of TCC to compensate it for the expenses incurred and the delay caused and opportunities foregone as a result of the failure of the Transaction to close. In addition, TCC has all other rights and remedies against Canadian Tire in event

of such breach by Canadian Tire. Otherwise, if the Transaction does not close, the Monitor shall return the Deposit to Canadian Tire.

- (c) On the Closing Date, Canadian Tire will acquire from TCC all of TCC's rights, title and interest in and to the Subject Assets on the terms and conditions set out in the Lease Transfer Agreement.
- (d) The Lease Transfer Agreement and the Transaction contemplated therein are subject to the Court issuing the proposed Approval and Vesting Order and the Monitor issuing the Monitor's Certificate.
- (e) The Closing will take place at 10:00 a.m. (Toronto time) on the first Business Day following the date that is twenty-one (21) days following the issuance of the Approval and Vesting Order.
- (f) On or prior to the Closing Date, TCC and Canadian Tire will agree as to the allocation of the Purchase Price as between the Subject Assets provided that if the Parties cannot agree upon such an allocation, the Agreement will still constitute a binding agreement and the Transaction will proceed.
- (g) As described above, Canadian Tire covenants to use commercially reasonable efforts to obtain by the Closing Date the written consent of the Landlords to the assignment of the leases by TCC to Canadian Tire to the extent such consent is required by the terms of the Leases. As set out above, I have been advised by

Ms. Cooper of Canadian Tire and believe that such consents have been obtained.


- (h) In the event that the Parties are not able to obtain the Landlord Consent or an Approval and Vesting Order in respect of any of the Twelve Leases on or before the date set out in Section 8.3(a), the Parties will complete the Transaction on the Closing Date in accordance with the terms of the Lease Transfer Agreement with respect to those Leases for which an Approval and Vesting Order has been received, and the Lease Transfer Agreement will be deemed amended to delete the Lease(s) for which the Landlord Consent and/or Approval and Vesting Order has/have not been obtained. In these circumstances, the Purchase Price will be reduced by an amount agreed upon by the Parties, provided that in the absence of agreement by the Parties, the final amount will be determined by an independent appraiser mutually acceptable to the Parties.
  
- (i) Canadian Tire agrees to permit Lowe's to operate a big box home improvement store, subject to certain conditions, in respect of the following locations: Nanaimo North Town Centre (Nanaimo, BC) and Centrepoint Mall (Toronto, ON). In addition, Canadian Tire agrees to use commercially reasonable efforts to amend its rights under existing restrictive covenants or otherwise grant relief from such restrictive covenants to TCC, the relevant landlords, and third party assignees of leases in order to permit third party assignees to use the premises subject to such leases to operate a big box home

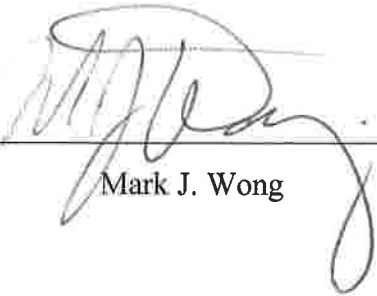
improvement store, subject to certain conditions, in respect of the following locations: Shoppes at Shawnessy (Calgary, AB) and Burlington Mall (Burlington, ON).

- (j) Canadian Tire covenants with TCC that it will, as and from the Closing Date, assume, discharge, perform and fulfill all the obligations and liabilities on the part of TCC with respect to the Assumed Liabilities.
- (k) Subject to the terms of the Lease Transfer Agreement, Canadian Tire is purchasing, accepting and assuming the Subject Assets on an “as is, where is” basis.
- (l) Until Closing, Canadian Tire will use reasonable efforts, at no cost to Canadian Tire, to assist TCC and will cooperate with TCC, as reasonably requested, to obtain from Landlords a full release of TCC’s and Target Corporation’s obligations under the Twelve Leases and/or any guarantee or indemnity provided in respect of the obligations of the tenant under the Twelve Leases.

25. For all of the foregoing reasons, the Target Canada Entities believe that approval of the Lease Transfer Agreement is in the best interests of the Target Canada Entities and their stakeholders.

SWORN BEFORE ME at the City of  
Toronto, on the 8<sup>th</sup> day of May, 2015.

  
\_\_\_\_\_  
Commissioner for taking Affidavits  
Stephanie Henry

  
\_\_\_\_\_  
Mark J. Wong

**Stephanie Jasodra Henry,**  
a Commissioner, etc., Province of  
Ontario, while a Student-at-Law.  
Expires March 22, 2016.

**SCHEDULE A****Partnerships**

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

# TAB A

THIS IS EXHIBIT "A" TO THE  
AFFIDAVIT OF MARK J. WONG  
SWORN MAY 8, 2015



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Commissioner for Taking Affidavits  
*Stephanie Henry*

**Stephanie Jasodra Henry,  
a Commissioner, etc., Province of  
Ontario, while a Student-at-Law.  
Expires March 22, 2016.**



## REAL PROPERTY PORTFOLIO SALE PROCESS

### Introduction

On January 15, 2015, Target Canada Co. (the “Company”) and those parties listed in Schedule “A” (collectively, the “Applicants”) sought and obtained protection under the *Companies’ Creditors Arrangement Act* (the “CCAA”) pursuant to an initial order (as amended, restated or varied from time to time, the “Initial Order”) granted by the Ontario Superior Court of Justice (Commercial List) (the “Court”). Alvarez & Marsal Canada Inc. was appointed as monitor in the CCAA proceedings (in such capacity, the “Monitor”)

On January 29, 2015, the Applicants served a motion seeking an order for the approval of a sale process (as same may be amended from time to time, the “Real Property Portfolio Sales Process”) under the supervision of the Court and the Monitor and in accordance with the procedures set forth herein (as same may be amended from time to time, the “Sales Process Procedures”).

The purpose of this Real Property Portfolio Sales Process is to seek Sale Proposals from Qualified Bidders and to implement one or a combination of them in respect of the Leases and the Real Property, which implementation may include sales, dispositions, assumptions, assignments, disclaimers, terminations, or other transaction forms.

On February 11, 2015, the Court entered an order approving the Real Property Portfolio Sales Process and the Sales Process Procedures (the “Sales Process Order”). Accordingly, the following Sales Process Procedures shall govern the Real Property Portfolio Sales Process.

This Real Property Portfolio Sales Process describes, among other things: (a) the Leases and the Real Property available for sale; (b) the manner in which prospective bidders may gain access to due diligence materials concerning the Leases and the Real Property; (c) the manner in which bidders and bids become Competing Bidders or Qualified Bidders and Competing Bids or Qualified Bids, respectively; (d) the manner in which Competing Bidders submit Stalking Horse Bids; (e) the manner in which Stalking Horse Bids, if any, become Selected Stalking Horse Bids; (f) the receipt, evaluation and negotiation of bids received; (g) the ultimate selection of one or more Successful Bidders and Backup Bidders; and (h) the process for obtaining such approvals (including the approval of the Court) as may be necessary or appropriate in respect of a Successful Bid, Backup Bid or Qualified Bid, as applicable.

### Defined Terms

1. The following capitalized terms have the following meanings when used in this Real Property Portfolio Sales Process:
  - (a) “Applicants” is defined in the introduction hereto.
  - (b) “Approval Motion” is defined in paragraph 38.
  - (c) “Auctions” is defined in paragraph 32.

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- (d) "Backup Bid" is defined in paragraph 33(h).
- (e) "Backup Bidder" is defined in paragraph 33(h).
- (f) "Baseline Bid" is defined in paragraph 33(d)(i).
- (g) "Break Fee" is defined in paragraph 25(b).
- (h) "Broker" means Northwest Atlantic Canada, Inc.
- (i) "Business Day" means a day (other than Saturday or Sunday) on which banks are generally open for business in Toronto, Ontario.
- (j) "CA" means a confidentiality agreement in form and substance satisfactory to the Company, in consultation with the Monitor.
- (k) "CCAA" is defined in the introduction hereto.
- (l) "CCAA Charges" means the Administration Charge, the KERP Charge, the Directors' Charge, the Financial Advisor Subordinated Charge and the DIP Lender's Charge (as such terms are defined in the Initial Order) together with any other charges approved by the Court.
- (m) "Claims and Interests" is defined in paragraph 4.
- (n) "Company" is defined in the introduction hereto.
- (o) "Competing Bid" is defined in paragraph 18.
- (p) "Competing Bidder" means a bidder that submits a Competing Bid.
- (q) "Confidential Information Memorandum" is defined in paragraph 9.
- (r) "Court" is defined in the introduction hereto.
- (s) "Deposit" is defined in paragraph 29(l).
- (t) "DIP Lender" means Target Corporation.
- (u) "Expense Reimbursement" is defined in paragraph 25(b).
- (v) "Financial Advisor" means Lazard Frères & Co. LLC.
- (w) "Form of Purchase Agreement" means the form of purchase and sale agreement to be developed by the Applicants, in consultation with the Monitor and the Financial Advisor, and provided to Qualified Bidders that submit a Qualified LOI for a Sale Proposal.
- (x) "Initial Order" is defined in the introduction hereto.
- (y) "Interested Bidder" is defined in paragraph 9.

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- (z) "Leases" means the Applicants' leasehold interests and all related rights and obligations in connection with the properties listed in Schedule "C" hereto.
- (aa) "LOI" is defined in paragraph 8.
- (bb) "Landlord LOI" means a non-binding letter of intent from a landlord for an acquisition or consensual transaction for one or more of its Leases that is submitted on or before the Phase 1 Bid Deadline.
- (cc) "Landlord Qualified Bid" means a final binding proposal from a landlord for an acquisition or consensual transaction for one or more of its Leases and which meets the requirements set out in paragraphs 29(a), (c), (d), (f), (h), (i), (j), (k) and (m).
- (dd) "Monitor" is defined in the introduction hereto.
- (ee) "Outside Backup Date" is defined in paragraph 33(h).
- (ff) "Outside Date" means June 30, 2015.
- (gg) "Phase 1" is defined in paragraph 8.
- (hh) "Phase 1 Bid Deadline" is defined in paragraph 11.
- (ii) "Phase 2" means such period of time from the Phase 1 Bid Deadline to the Approval Motion.
- (jj) "Qualified Bid" means an offer or combination of offers, in the form of a Sale Proposal or Sale Proposals, which meets the requirements of paragraph 29.
- (kk) "Qualified Bid Deadline" is defined in paragraph 27.
- (ll) "Qualified Bidder" means a bidder that submits a Qualified Bid.
- (mm) "Qualified LOI" is defined in paragraph 12.
- (nn) "Real Property" means the lands and premises described in Schedule "D" hereto.
- (oo) "Sales Process Order" is defined in the introduction hereto.
- (pp) "Sale Process Procedures" is defined in the introduction hereto.
- (qq) "Sale Proposal" means an offer to acquire or otherwise dispose of all or some of the Leases and/or the Real Property. A "Sale Proposal" may include a transaction involving the assignment and assumption, termination and/or surrender or disclaimer of a Lease or Leases.
- (rr) "Selected Stalking Horse Bid" is defined in paragraph 23.
- (ss) "Selected Stalking Horse Bidder" is defined in paragraph 23.

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- (tt) "Stalking Horse Bid" is defined in paragraph 20.
- (uu) "Successful Bid" is defined in paragraph 33(g).
- (vv) "Successful Bidder" is defined in paragraph 33(g).
- (ww) "Targeted Outside Date" means May 15, 2015, or such later date as may be determined by the Applicants, on the consent of the Monitor, and in consultation with the Financial Advisor and the DIP Lender, provided that in no event shall such date be after June 1, 2015.
- (xx) "Teaser Letter" is defined in paragraph 6.

#### **Supervision of the Real Property Portfolio Sales Process**

2. The Monitor will supervise, in all respects, the Real Property Portfolio Sales Process and any attendant sales and, without limitation, will supervise the Financial Advisor's performance under its engagement by the Company in connection therewith. The Applicants shall assist and support the efforts of the Monitor and the Financial Advisor as provided for herein. In the event that there is disagreement or clarification required as to the interpretation or application of this Real Property Portfolio Sales Process or the responsibilities of the Monitor, the Financial Advisor or the Applicants hereunder, the Court will have jurisdiction to hear such matter and provide advice and directions, upon application of any interested person. For the avoidance of doubt, and without limiting the rights and protections afforded the Monitor under the CCAA, the Initial CCAA Order and the Sales Process Order, the terms of the Initial Order and the Sales Process Order shall govern the Monitor's role in regards to the Real Property Portfolio Sales Process.

#### **"As Is, Where Is"**

3. The sale of the Leases and the Real Property will be on an "as is, where is" basis and without representations or warranties of any kind, nature, or description by the Monitor, the Financial Advisor, the Applicants or any of their respective directors, officers, employees, advisors, professionals, agents, estates or otherwise, except and only to the extent set forth in a definitive sale agreement executed by an Applicant.
4. [intentionally deleted]

#### **Solicitation of Interest**

5. As soon as reasonably practicable, the Monitor will cause a notice of the Real Property Portfolio Sales Process (and such other relevant information which the Monitor, in consultation with the Financial Advisor and the Applicants, considers appropriate) to be published in The Globe and Mail (National Edition) and The Wall Street Journal (National Edition) and posted on the Monitor's website.
6. As soon as reasonably practicable, but in any event no more than three (3) Business Days after the issuance of the Sales Process Order, the Financial Advisor shall distribute an

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initial offering summary of the Leases and the Real Property in form acceptable to the Applicants and the Monitor (the "Teaser Letter") notifying those potentially interested parties that are identified by the Financial Advisor, the Broker, the Monitor and the Applicants, each in their sole discretion, of the existence of the Real Property Portfolio Sales Process and inviting such parties to express an interest in making an offer to acquire all or some of the Leases and the Real Property in accordance with the Sales Process Procedures.

### **Participation Requirements**

7. Unless otherwise ordered by the Court, or as otherwise determined by the Applicants, in consultation with the Monitor, each person seeking to participate in the Real Property Portfolio Sales Process must deliver to the Financial Advisor at the address specified in Schedule "B" hereto (including by email transmission):
  - (a) a letter setting forth such person's identity, the contact information for such person and full disclosure of the principals of such person; and
  - (b) an executed CA which shall include provisions whereby such person agrees to accept and be bound by the provisions contained therein.

### **REAL PROPERTY PORTFOLIO SALES PROCESS – PHASE 1**

#### **Phase 1 Initial Timing**

8. For a period from the date of the Sales Process Order until the Phase 1 Bid Deadline ("Phase 1"), the Financial Advisor (with the assistance of the Monitor, the Applicants and the Broker) will solicit non-binding letters of intent from prospective parties to acquire one or more of the Leases and/or the Real Property (each, an "LOI").

#### **Due Diligence**

9. Subject to the provisions of paragraph 43, a confidential information memorandum (the "Confidential Information Memorandum") describing the opportunity to acquire all or some of the Leases and the Real Property will be made available by the Financial Advisor to those parties who have executed a CA (each party who executes a CA shall be deemed to be an "Interested Bidder").
10. Subject to the provisions of paragraph 43, the Financial Advisor will provide each Interested Bidder with access to an electronic data room. The Monitor, the Financial Advisor, the Broker, the DIP Lender and the Applicants make no representation or warranty as to the information: (a) contained in the Confidential Information Memorandum or the electronic data room; (b) provided through any diligence process; or (c) otherwise made available, except to the extent expressly contemplated in any definitive sale agreement executed by an Applicant.

#### **Non-Binding Letters of Intent from Interested Bidders**

11. Interested Bidders that wish to pursue a Sale Proposal must deliver an LOI to the Financial Advisor at the address specified in Schedule "B" hereto (including by email

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transmission), so as to be received by the Financial Advisor not later than 5:00 PM (Toronto time) on or before March 5, 2015, or such later date or time as may be determined by the Applicants, on the consent of the Monitor, and in consultation with the Financial Advisor and the DIP Lender (the "Phase 1 Bid Deadline").

12. An LOI so submitted will be considered a qualified LOI for the purposes hereof (a "Qualified LOI") only if:
  - (a) it is submitted on or before the Phase 1 Bid Deadline;
  - (b) it contains an indication of whether the Interested Bidder is offering to acquire all or some of the Leases and the Real Property;
  - (c) it identifies or contains the following:
    - (i) the purchase price (or range thereof) in Canadian dollars;
    - (ii) the Leases and/or the Real Property subject to the transaction; and
    - (iii) any proposed allocation of the purchase price as between each Lease and/or Real Property;
  - (d) it provides a general description of any likely financing associated with the proposed transaction;
  - (e) it describes any additional due diligence required to be conducted during Phase 2;
  - (f) it identifies any anticipated terms or conditions of the Sale Proposal that may be material to the proposed transaction; and
  - (g) it contains such other information reasonably requested by the Applicants in consultation with the Monitor and the Financial Advisor.
13. A Landlord LOI shall be deemed to be a Qualified LOI.
14. The Applicants, with the consent of the Monitor, and in consultation with the Financial Advisor, may waive compliance with any one or more of the requirements specified above (other than those in (c) and (d)) and deem such non-compliant bids to be a Qualified LOI. However, for the avoidance of doubt, the completion of any Sale Proposal shall be subject to the approval of the Court and the requirement of such approval may not be waived.

**Assessment of Qualified LOIs and Continuation or Termination of Real Property Portfolio Sales Process**

15. Within five (5) Business Days following the Phase 1 Bid Deadline, or such later date as may be determined by the Applicants, with the consent of the Monitor, and in consultation with the Financial Advisor, the Applicants will, in consultation with the Financial Advisor and the Monitor, assess the Qualified LOIs received during Phase 1, if any, and will determine whether there is a reasonable prospect of obtaining a Qualified

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Bid. For the purpose of such consultations and evaluations, the Monitor or the Financial Advisor may request clarification of the terms of any Qualified LOI submitted by an Interested Bidder.

16. In assessing the Qualified LOIs submitted in Phase 1, the Applicants, following consultation with the Monitor and the Financial Advisor will consider, among other things, the following:
- (a) the form and amount of consideration being offered;
  - (b) the effect of accepting Sale Proposals which are not on an en bloc basis;
  - (c) the financial capability of the Interested Bidder to consummate the proposed transaction;
  - (d) the financial and other capability of the Interested Bidder to perform, observe and comply with the terms (including payment and other obligations) of the applicable Leases(s);
  - (e) the anticipated conditions to closing of the proposed transaction (including any required regulatory and landlord approvals);
  - (f) the estimated time required to complete the proposed transaction and whether, in the Applicants' reasonable business judgment, in consultation with the Monitor and the Financial Advisor, it is reasonably likely to result in the execution of a definitive agreement on or before the Targeted Outside Date; and
  - (g) such other criteria as the Applicants may, in consultation with the Monitor and the Financial Advisor, determine.
17. If one or more Qualified LOIs are received and the Applicants, with the consent of the Monitor, and in consultation with the Financial Advisor, determine that there is a reasonable prospect of obtaining a Qualified Bid, the Applicants shall continue the Real Property Portfolio Sales Process as set forth herein.

## PHASE 2

### Due Diligence

18. Each Interested Bidder that: (a) submits a Qualified LOI; and (b) is not eliminated from the Real Property Portfolio Sales Process by the Applicants, following consultation with the Financial Advisor and the Monitor, and after assessing whether such Qualified LOI meets the criteria in paragraph 16 herein, may be invited by the Applicants to participate in Phase 2 (each such bidder, a "Competing Bidder").
19. Subject to the provisions of paragraph 43, the Financial Advisor will provide each Competing Bidder with access to additional due diligence materials and information relating to the Leases and Real Property as the Applicants, in their reasonable business

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judgment and in consultation with the Financial Advisor and the Monitor, determine appropriate, including all guarantees and indemnities by any person, and information or materials reasonably requested by Competing Bidders.

### **Stalking Horse Bids from Competing Bidders**

20. The Applicants, in their reasonable business judgment, on consent of the Monitor, and in consultation with the Financial Advisor, may select one or more bids from Competing Bidders to serve as Selected Stalking Horse Bids. Paragraphs 20 to 26 apply only in the event one or more such bids is so selected to serve as a Selected Stalking Horse Bid. Any Competing Bidder that wishes to submit a stalking horse bid (a "**Stalking Horse Bid**") must deliver a Qualified Bid in accordance with paragraph 29, as applicable, to the Financial Advisor at the address specified in Schedule "B" hereto (including by email transmission) so as to be received by it not later than 5:00 pm (Toronto time) on or before March 26, 2015, or such later date or time as may be determined by the Applicants on the consent of the Monitor and in consultation with the Financial Advisor and the DIP Lender (the "**Stalking Horse Bid Deadline**").
21. The Applicants, in consultation with the Financial Advisor and the Monitor, will review and evaluate each Stalking Horse Bid in accordance with the criteria set out in paragraph 31(b) for the review of Qualified Bids, and, with the consent of the Monitor and in consultation with the Financial Advisor, may waive compliance with any one or more of the requirements with respect to Qualified Bids specified herein which are applicable to any Stalking Horse Bid(s).
22. If one or more Stalking Horse Bids is received, the Applicants, exercising their reasonable business judgment, on consent of the Monitor and in consultation with the Financial Advisor, may select the Stalking Horse Bid(s) it considers most favourable and shall negotiate and attempt to settle the terms of a definitive agreement in respect of such Stalking Horse Bid(s).
23. A definitive agreement negotiated and settled in respect of a Stalking Horse Bid as selected by the Applicants on the consent of the Monitor will be a "**Selected Stalking Horse Bid**" hereunder and the person(s) who made the Selected Stalking Horse Bid will be a "**Selected Stalking Horse Bidder**" hereunder. For greater certainty, the Applicants may select more than one Selected Stalking Horse Bid on the consent of the Monitor; provided, however, that only one Selected Stalking Horse Bid may be selected in respect of any particular Lease and/or Real Property.
24. For the avoidance of doubt, the Applicants reserve the right, taking into account all other factors set forth herein (including execution risk), to choose, on the consent of the Monitor, one or more successful bidders as Selected Stalking Horse Bidders that did not offer the highest purchase price for the Leases and/or the Real Property.
25. The Applicants may grant, on consent of the Monitor and in consultation with the Financial Advisor, each Selected Stalking Horse Bidder, the following bid protections:



- (a) a Break Fee not to exceed 3.0% of the negotiated purchase price of the applicable Leases and/or the Real Property (the “Break Fee”); and/or
  - (b) an expense reimbursement of documented and reasonable out of pocket costs in pursuing the opportunity to consummate a Sale Proposal to a maximum amount of \$150,000 in the aggregate (the “Expense Reimbursement”).
26. A Selected Stalking Horse Bidder shall only be entitled to payment of a Break Fee and/or an Expense Reimbursement, as applicable, if and when the Applicants consummate a transaction for the applicable Leases and/or Real Property with a Successful Bidder or a Backup Bidder, neither of which is the Selected Stalking Horse Bidder.

### Qualified Bids

27. The deadline for submission of bids to be considered for the sales of Lease(s) and/or Real Property (the “Qualified Bids”) shall be April 23, 2015, or such later date or time as may be determined by the Applicants on the consent of the Monitor and in consultation with the Financial Advisor and the DIP Lender (the “Qualified Bid Deadline”).
28. A Landlord Qualified Bid shall be deemed to be a Qualified Bid.
29. Any Competing Bidder (other than a Selected Stalking Horse Bidder, which, for the avoidance of doubt, is deemed to be a Qualified Bidder) who wishes to become a Qualified Bidder must submit a Qualified Bid satisfying the conditions set forth below for the applicable Lease(s) and/or Real Property:
- (a) it is received by the Qualified Bid Deadline;
  - (b) it is a final binding proposal in the form of a duly authorized and executed purchase agreement, including the purchase price for the Leases and/or the Real Property proposed to be acquired, based on the Form of Purchase Agreement and accompanied by a clean Word version and a blacklined mark-up of the Form of Purchase Agreement showing amendments and modifications made thereto, together with all exhibits and schedules thereto, and such ancillary agreements as may be required by the Competing Bidder with all exhibits and schedules thereto;
  - (c) it is irrevocable until the earlier of: (i) the approval by the Court of a Successful Bid, and (ii) 28 days following the Qualified Bid Deadline, provided that if such bidder is selected as the Successful Bidder, its offer will remain irrevocable until the closing of its Successful Bid;
  - (d) it includes an irrevocable commitment of the Competing Bidder to serve as the Backup Bidder in accordance with the Sale Process Procedures;
  - (e) it includes written evidence of a firm, irrevocable commitment for financing, or other evidence of ability to consummate and perform the proposed transaction, and to meet all of the financial obligations under the Lease(s) that will allow the Monitor, in consultation with the Financial Advisor and the Applicants, to make a reasonable determination as to the Competing Bidder’s financial and other

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capabilities to consummate and perform the transaction contemplated by its Qualified Bid;

- (f) it lists the Leases and/or the Real Property to be subject to the bid and an allocation of the purchase price on a property by property basis;
- (g) it includes details of any amendments which such Competing Bidder seeks to any such Lease(s) from the applicable landlord(s) and other non-landlord liabilities to be assumed by the Competing Bidder; for greater certainty, nothing in this Real Property Portfolio Sales Process shall be construed to (i) permit or require any amendments to the terms of any Lease(s) without the consent of the applicable landlord(s), or (ii) obligate any landlord to negotiate with a Competing Bidder regarding any such amendments;
- (h) it is not conditional upon, among other things:
  - (i) the outcome of unperformed due diligence by the Competing Bidder; or
  - (ii) obtaining financing;
- (i) it fully discloses the identity of each entity that will be sponsoring or participating in the bid, and the complete terms of such participation;
- (j) with respect to any condition to closing contained in the definitive documentation, it outlines the anticipated time frame and any anticipated impediments for obtaining such approvals;
- (k) it includes evidence, in form and substance reasonably satisfactory to the Applicants, the Monitor and the Financial Advisor, of authorization and approval from the bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction contemplated by the bid;
- (l) it is accompanied by a deposit (the "Deposit") in the form of a wire transfer (to a bank account specified by the Monitor), or such other form acceptable to the Monitor, payable to the order of the Monitor on behalf of the Applicants, in trust, in an amount equal to 10% of the purchase price for the Leases and/or the Real Property proposed to be acquired, to be held and dealt with in accordance with the terms of a definitive agreement executed by an Applicant and this Real Property Portfolio Sales Process, provided, however, that such amount may be raised or lowered for any particular Qualified Bid by the Applicants, in their reasonable business judgment and in consultation with the Monitor and the Financial Advisor;
- (m) it includes an acknowledgement and representation that the bidder: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the assets to be acquired and liabilities to be assumed in making its bid; (ii) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by

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operation of law or otherwise), regarding the assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith, except as expressly stated in the purchase and sale agreement; and (iii) acknowledges that the occupancy of the premises set forth in the Leases may not be available until the completion of any inventory sale at the premises; and

- (n) it contains such other information reasonably requested by the Applicants, in consultation with the Monitor and the Financial Advisor.
30. The Applicants, with the consent of the Monitor and in consultation with the Financial Advisor, may waive compliance with any one or more of the requirements with respect to Qualified Bids or Landlord Qualified Bids specified herein.
31. The Applicants, in consultation with the Financial Advisor:
- (a) may, in consultation with the Monitor, engage in negotiations with Qualified Bidders as they deem appropriate and may accept revisions to Qualified Bids, in their discretion, that are otherwise consistent with these Sales Process Procedures;
  - (b) shall, on the consent of the Monitor, determine which is the most favourable bid with respect to such Lease(s) and/or Real Property, taking into account, among other things:
    - (i) the form and amount of consideration being offered;
    - (ii) whether the Qualified Bid maximizes value for the Leases and/or the Real Property, including the effect of accepting Sale Proposals which are not on an en bloc basis;
    - (iii) the demonstrated financial capability of the Qualified Bidder to consummate the proposed transaction;
    - (iv) the conditions to closing of the proposed transaction (including any required regulatory and landlord approvals);
    - (v) the terms and provisions of any proposed transaction documentation;
    - (vi) the estimated time required to complete the proposed transaction and whether, in the Applicants' reasonable business judgment, in consultation with the Monitor and the Financial Advisor, it is reasonably likely to result in the execution of a definitive agreement on or before the Targeted Outside Date; and
    - (vii) such other criteria as the Applicants may in consultation with the Monitor and the Financial Advisor determine.

#### Auction Process

32. The Applicants, in consultation with the Financial Advisor and the Monitor, shall commence one or more auctions (the "Auctions") on or about April 28, 2015.

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33. The Applicants, in consultation with the Financial Advisor and the Monitor, shall conduct Auctions on the following terms:
- (a) only Qualified Bidders for the Lease(s) and/or Real Property to be auctioned and their financial and legal advisors shall be entitled to participate in an Auction;
  - (b) the Qualified Bidders who wish to participate at an Auction must appear in person;
  - (c) official actions at any Auction shall be made on the record in the presence of a court reporter;
  - (d) the Applicants and their advisors shall, at the outset of any Auction, announce:
    - (i) the Qualified Bid(s) selected by the Applicants, in their reasonable business judgment and on the consent of the Monitor in consultation with the Financial Advisor, that are the most favourable Qualified Bid(s) as of the date thereof (the "**Baseline Bid**"); and
    - (ii) procedures for the conduct of the Auction, including, among other things, any overbid amounts;
  - (e) to make a bid at the Auction, a Qualified Bidder will modify and resubmit its Qualified Bid, which resubmission shall become its new Qualified Bid;
  - (f) subsequent bids after the Baseline Bid must be higher and better (as determined by the Applicants, in their reasonable business judgment and in consultation with the Financial Advisor and the Monitor) by at least the amount of any applicable overbids;
  - (g) the Auction shall continue until there are no further higher and better Qualified Bids (as determined by the Applicants, in their reasonable business judgment and in consultation with the Financial Advisor and the Monitor) that comply with the procedures set forth for the Auction, and such highest and best Qualified Bid at the time shall become the "**Successful Bid**" (and the person(s) who made the Successful Bid shall become the "**Successful Bidder**");
  - (h) the entity with the next-highest or otherwise second best Qualified Bid at the Auction (as determined by the Applicants, in their reasonable business judgment and in consultation with the Financial Advisor and the Monitor) shall be required to serve as a backup bidder (the "**Backup Bidder**"). The identity of the Backup Bidder and the amount and material terms of the final Qualified Bid of the Backup Bidder (the "**Backup Bid**") shall be announced by the Financial Advisor at the conclusion of the Auction concurrently with announcement of the Successful Bidder. The Backup Bidder shall be required to keep its Backup Bid open and irrevocable until the earlier of (i) 5:00 p.m. (Toronto time) on the first Business Day that is 60 days after the date of the Auction (the "**Outside Backup Date**") and (ii) the closing of the transaction with the Successful Bidder; and

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- (i) any break fees or other fees due to a Selected Stalking Horse Bidder who is not a Successful Bidder or Backup Bidder shall be payable upon the consummation of the Successful Bid or Backup Bid, as applicable, for the applicable Leases and/or Real Property.
34. The Applicants, with the consent of the Monitor, and in consultation with the Financial Advisor, may modify Auction procedures at any time.
  35. Notwithstanding the foregoing or anything else contained herein, the Applicants reserve the right, taking into account all other factors set forth herein (including execution risk), to choose one or more bidders as Successful Bidders that did not offer the highest purchase price for the Leases and/or the Real Property.
  36. All Deposits will be retained by the Monitor and invested in a separate interest bearing trust account. If there is a Successful Bid, the Deposit (plus accrued interest) paid by any Successful Bidder whose bid is approved at the Approval Motion will be applied to the purchase price upon closing of the approved transaction and will be non-refundable. The Deposit (plus applicable interest) of each Qualified Bidder not selected as a Successful Bidder will be returned to such Qualified Bidder within five (5) Business Days of the date upon which the Successful Bids are approved by the Court; provided, however, that the Deposit of any Backup Bidder shall not be returned to such Backup Bidder until the earlier of (a) consummation of the Successful Bid and (b) the expiration of the Outside Backup Date. If there is no Successful Bid, subject to the following paragraph, all Deposits (plus applicable interest) will be returned to the bidders within five (5) Business Days of the date upon which the Real Property Portfolio Sales Process is terminated in accordance with the Sale Process Procedures.
  37. If a Successful Bidder breaches its obligations under its Qualified Bid, its Deposit shall immediately be forfeited to the Applicants without limiting any other of the Applicants' rights and remedies at law or at equity.

#### **Approval Motion for Definitive Agreements**

38. The Applicants will apply to the Court (the "Approval Motion") for an order approving the Successful Bid(s), or for Lease(s) and/or Real Property not subject to an Auction, the applicable Qualified Bid(s), and authorizing the Applicants to enter into any and all necessary agreements with respect to the Successful Bid(s) and Qualified Bid(s), as applicable, and to undertake such other actions as may be necessary or appropriate to give effect to the Successful Bid(s) and Qualified Bid(s), as applicable. The Approval Motion may be adjourned or rescheduled by the Applicants, in consultation with the Monitor and the DIP Lender, and without further notice by an announcement of the adjourned date at the Approval Motion. Nothing in this Real Property Portfolio Sales Process and nothing in any arrangements made during the course thereof between the Monitor and/or the Applicants on the one hand and a Successful Bidder on the other shall in any way prejudice or impair the ability of a landlord(s) to object to the Court approval of a Successful Bid.

## OTHER TERMS

### Approvals

39. For the avoidance of doubt, the approvals required pursuant to the terms hereof are in addition to, and not in substitution for, any other approvals required by the CCAA or any other statute or as otherwise required at law in order to implement a Successful Bid, Backup Bid or Qualified Bid, as applicable.

### Amendment

40. If there is any proposed material modification to the Real Property Portfolio Sales Process by the Applicants, the Applicants will seek Court approval of such material modification on notice to the Service List. Otherwise, the Applicants retain the discretion, with the consent of the Monitor and the DIP Lender and in consultation with the Financial Advisor, to modify the Real Property Portfolio Sales Process from time to time.

### DIP Lender Communications

41. The Applicants, the Monitor and the Financial Advisor will communicate and consult with the DIP Lender throughout the Real Property Portfolio Sales Process and will provide information to the DIP Lender in connection with such communications.

### Monitor Updates

42. The Monitor will provide periodic updates to the Court on notice to the Service List with respect to the conduct and progress of the Real Property Portfolio Sales Process, including an update to be delivered to the Court at the conclusion of Phase 1, prior to the commencement of any Auction and at the conclusion of any Auction.

### Reservation of Rights

43. The Applicants, in their reasonable business judgment and in consultation with the Monitor and the Financial Advisor, may provide Interested Bidders with any diligence materials and information, including site visits, that the Applicants deem necessary and appropriate to maximize the value of Real Property Portfolio Sales Process at any time after entry of the Sale Process Order.
44. Notwithstanding anything else contained herein, at any time after entry of the Sale Process Order, the Applicants, in their reasonable business judgment and in consultation with the Financial Advisor and the Monitor may, from time to time, withdraw any Lease(s) and/or Real Property from this Real Property Portfolio Sales Process in accordance with the CCAA, the Applicants' rights under the Initial Order, or if any agreement is reached with the landlord of the relevant Lease(s).
45. The Applicants, after consultation with the Financial Advisor and on the consent of the Monitor, may reject any or all bids.

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46. To the extent any notice of changes to these procedures or related dates, time, or locations is required or otherwise appropriate, the Monitor may publish such notices on the Monitor's public web site at <http://www.alvarezandmarsal.com/targetcanada> and the Applicants shall forthwith serve such notices on the Service List, and such notice shall be deemed satisfactory, subject to any other notice requirements specifically set forth herein or as required by the Court.
47. This Real Property Portfolio Sales Process does not, and will not be interpreted to, create any contractual or other legal relationship between the Applicants or the Monitor and any Qualified Bidder, other than, with respect to the Applicants, as specifically set forth in a definitive agreement that may be executed by an Applicant. At any time during the Real Property Portfolio Sales Process, the Monitor may apply to the Court for advice and directions with respect to the discharge of its power and duties hereunder.

#### **Landlord Communications**

48. The Applicants, the Monitor and the Financial Advisor will communicate with the landlords under the Leases from time to time, as appropriate, in connection with their respective interests in the Real Property Portfolio Sales Process.

#### **Outside Date**

49. If a definitive agreement with respect to a particular Lease(s) is not executed on or before June 1, 2015, any such Lease(s) that is not subject to a definitive executed agreement on or before such date (or not earlier disclaimed, which disclaimer has become effective by June 1, 2015) shall be released from the stay of proceedings and shall be disclaimed in accordance with the CCAA and the Initial Order on June 1, 2015.
50. If a transaction with respect to a particular Lease(s) has not been completed on or before June 30, 2015 or such later date as may be ordered by the Court, any such Lease(s) that is the subject of such transaction shall be released from the stay of proceedings and shall be disclaimed in accordance with the CCAA and the Initial Order on the later of (i) June 30, 2015, and (ii) such later date as may be ordered by the Court, as applicable.

SCHEDULE "A"Applicants

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.

Target Canada Property LLC

Target Canada Pharmacy Franchising LP

Target Canada Mobile LP

Target Canada Property LP



SCHEDULE "B"*To the Company:*

Target Canada Co.  
5570 Explorer Drive  
Mississauga, ON L4W 0C3

Attn: Aaron Alt  
Email: [aaron.alt@target.com](mailto:aaron.alt@target.com)

*With a copy to:*

Osler, Hoskin & Harcourt LLP  
100 King Street West  
1 First Canadian Place  
Suite 6200, P.O. Box 50  
Toronto, ON M5X 1B8

Attn: Tracy Sandler & Heather McKean  
Email: [tsandler@osler.com](mailto:tsandler@osler.com) & [hmckean@osler.com](mailto:hmckean@osler.com)

*To the Monitor:*

Alvarez & Marsal Canada Inc., Court appointed Monitor of Target Canada Co. et al  
Royal Bank Plaza , South Tower, Suite 2900  
PO Box 22  
Toronto ON M5J 2J1

Attn: Doug McIntosh and Bill Kosturos  
Email: [dmcintosh@alvarezandmarsal.com](mailto:dmcintosh@alvarezandmarsal.com) & [bkosturos@alvarezandmarsal.com](mailto:bkosturos@alvarezandmarsal.com)

*With a copy to:*

Goodmans LLP  
Bay Adelaide Centre  
333 Bay Street, Suite 3400  
Toronto, Ontario M5H 2S7

Attn: Jay Carfagnini and Ken Herlin  
Email: [jcarfagnini@goodmans.ca](mailto:jcarfagnini@goodmans.ca) & [kherlin@goodmans.ca](mailto:kherlin@goodmans.ca)

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*To the Financial Advisor:*

Lazard Freres & Co. LLC.  
30 Rockefeller Plaza  
New York, NY 10112

Attn: Tim Pohl & Phillip Summers  
Email: [tim.pohl@lazard.com](mailto:tim.pohl@lazard.com) & [phillip.summers@lazard.com](mailto:phillip.summers@lazard.com)

*To the Broker:*

Northwest Atlantic Canada, Inc.  
864 York Mills Road  
Toronto, Ontario M3B 1Y4

Attn: Tim Sanderson  
Email: [tim@nwaretail.com](mailto:tim@nwaretail.com)

*To the DIP Lender:*

Target Corporation  
1000 Nicollet Mall  
Minneapolis, MN 55403

Attn: Corey Haaland  
Email: [corey.haaland@target.com](mailto:corey.haaland@target.com)

*With a copy to:*

Faegre Baker Daniels LLP  
2200 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, MN 55402

Attn: Dennis M. Ryan  
Email: [dennis.ryan@faegrebd.com](mailto:dennis.ryan@faegrebd.com)

SCHEDULE "C"

Leases

<u>ID #</u>	<u>Description</u>	<u>City</u>	<u>Province</u>
3505	Bayshore Mall	Ottawa	ON
3507	Intercity Shopping Centre	Thunder Bay	ON
3508	Discovery Harbour Shopping Centre	Campbell River	BC
3509	Nanaimo North Town Centre	Nanaimo	BC
3510	Westmount Shopping Centre	London	ON
3511	Hazeldean Mall	Kanata	ON
3512	Driftwood Mall	Courtenay	BC
3516	Carrefour Richelieu	St-Jean-sur-Richelieu	QC
3519	South Hamilton Square	Hamilton	ON
3522	County Fair Mall	Smiths Falls	ON
3524	Queenston Place	Hamilton	ON
3526	Lawrence Square	Toronto	ON
3530	Sydney Shopping Centre	Sydney	NS
3533	Thames-Lea Plaza	Chatham-Kent	ON
3534	Lansdowne Centre	Richmond	BC
3538	Forest Lawn Shopping Centre	Calgary	AB
3547	Les Galeries Gatineau	Gatineau	QC
3548	Hillside Mall	Victoria	BC
3550	Uptown Centre	Fredericton	NB
3552	Westdale Mall	Mississauga	ON
3557	Scottsdale Mall	Delta	BC
3559	Five Points Mall	Oshawa	ON
3560	Lindsay Square Mall	Lindsay	ON
3561	Kingsway Garden Mall	Edmonton	AB
3564	Sherwood Park Mall	Edmonton (Sherwood Park)	AB
3565	Upper Canada Mall	Newmarket	ON
3566	Northwest Centre	Moncton	NB
3572	Milton Mall Shopping Centre	Milton	ON
3574	Prairie Mall	Grande Prairie	AB
3575	Cottonwood Mall	Chilliwack	BC
3576	Carrefour St-Georges	Saint-Georges	QC
3577	The Mall At Lawson Heights	Saskatoon	SK
3586	Haney Place Mall	Maple Ridge	BC
3590	Carrefour De L'Estrie	Sherbrooke	QC
3591	Catawaqui Town Centre	Kingston	ON
3592	Les Rivières Shopping Centre	Trois-Rivières	QC
3595	Carrefour Angrignon	Montreal	QC
3608	Cambridge Centre	Cambridge	ON
3609	Centrepoin Mall	Toronto	ON
3610	Terrarium Shopping Centre	Pointe-Claire	QC
3613	Le Carrefour Rimouski	Rimouski	QC
3614	Medicine Hat Mall	Medicine Hat	AB
3615	Tamarack Mall	Cranbrook	BC
3616	Coquitlam Centre	Coquitlam	BC
3617	Surrey Place/Central City	Surrey	BC
3623	Bramalea City Centre	Brampton	ON
3624	Bower Place	Red Deer	AB
3628	Meadowlands Shopping Centre	Ottawa-Gatineau	ON
3630	1899 Algonquin Avenue	North Bay	ON

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3634	Place Portabello	Brossard	QC
3636	Square One	Mississauga	ON
3637	Charlottetown Mall	Charlottetown	PE
3639	Durham Centre	Ajax	ON
3642	Laurentian Power Centre	Kitchener	ON
3644	Kildonan Place Shopping Centre	Winnipeg	MB
3645	Seaway Mall	Welland	ON
3646	Erin Mills Town Centre	Mississauga	ON
3647	Galleries D'Anjou	Montreal	QC
3648	West Edmonton Mall	Edmonton	AB
3650	Corner Brook	Corner Brook	NL
3652	Bayers Lake Power Centre	Halifax	NS
3655	McAllister Place	Saint John	NB
3657	Carrefour Du Nord	Saint-Jerome	QC
3658	RioCan St. Laurent	Ottawa	ON
3663	Pickering Town Centre	Pickering	ON
3665	Orillia Square	Orillia	ON
3666	Hillcrest Mall	Richmond Hill	ON
3667	Bridlewood Mall	Scarborough	ON
3668	Shoppers World Brampton	Brampton	ON
3669	Sheridan Mall	Mississauga	ON
3670	Hopedale Mall	Oakville	ON
3671	Meadowland Power Centre	Hamilton	ON
3672	Conestoga Mall	Waterloo	ON
3677	Sudbury Supermall	Sudbury	ON
3682	Southdale Centre	Winnipeg	MB
3688	Village Green Mall	Vernon	BC
3690	Willowbrook Shopping Centre	Langley	BC
3693	Carrefour St-Eustache	Saint-Eustache	QC
3694	St. Albert Centre	St. Albert	AB
3695	Mega Centre Autoroute 13	Laval	QC
3696	Les Galeries De La Capitale	Quebec City	QC
3697	Mic Mac Mall	Halifax	NS
3698	Orchard Park Plaza	Kelowna	BC
3699	Stratford Mall	Stratford	ON
3702	Place Longueuil	Longueuil	QC
3704	Place Alexis Nihon	Westmount	QC
3705	Place Versailles Shopping Centre	Montreal	QC
3706	Masonville Place	London	ON
3707	Woodbine Centre	Toronto	ON
3708	Devonshire Mall	Windsor	ON
3709	Les Promenades Saint-Bruno	Saint-Bruno-de-Montarville	QC
3710	Bonnie Doon	Edmonton	AB
3711	Oakridge Centre	Vancouver	BC
3713	Sunridge Mall	Calgary	AB
3714	Market Mall	Calgary	AB
3715	Cloverdale Mall	Toronto	ON
3717	Metropolis At Metrotown	Burnaby	BC
3718	Les Galeries Joliette	Joliette	QC
3719	Pine Centre	Prince George	BC
3725	Galleries Chagnon	Levis	QC
3728	Northgate Mall	Regina	SK
3729	Shoppers World Danforth	Toronto	ON
3730	Pen Centre	St. Catharines	ON
3731	Bedford Place	Bedford	NS

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3732	Cabot Square	St John's	NL
3737	Shoppes At Shawnessy	Calgary	AB
3738	Burlington Mall	Burlington	ON
3739	Abbotsford Power Centre	Abbotsford	BC
3742	East York Town Centre	Toronto	ON
3743	Place Fleur De Lys	Quebec City	QC
3744	Sahali Centre Mall	Kamloops	BC
3746	Billings Bridge Plaza	Ottawa	ON
3747	Grant Park	Winnipeg	MB
3749	Aurora Shopping Centre	Aurora	ON
3751	Gates Of Fergus	Wellington	ON
3753	Centre Mall	Hamilton	ON
3754	Signal Hill Centre	Calgary	AB
3755	Place Laurier	Quebec City	QC
3757	Clarington Town Centre	Clarington	ON
3759	Stone Road Mall	Guelph	ON
3760	Tillicum Mall	Victoria	BC
3761	Millcroft Centre	Burlington	ON
3762	Flamborough Power Centre	Hamilton	ON
3763	Shoppers Mall	Brandon	MB
3764	Place D'Orleans	Ottawa	ON
3765	Faubourg Boisbriand	Boisbriand	QC
3766	Centre At Circle & Eighth	Saskatoon	SK
3767	Taunton Road Power Centre	Whitby	ON
3768	Eglinton and Warden	Toronto	ON
3769	Place Vertu	St Laurent	QC
3770	Mill Woods Town Centre	Edmonton	AB
3772	Chinook Centre	Calgary	AB
3773	Trinity Common	Brampton	ON
7000	Centre Laval	Laval	QC
7001	RioCan Niagara Falls	Niagara Falls	ON
7002	Stockyards	Toronto	ON
7008	York Street	Toronto	ON
7325	Warehouse space	Mississauga	ON
7326	Warehouse space	Calgary	AB
7327	Warehouse space	Montreal	QC
7328	Warehouse space	Burnaby	BC
7329	Distribution Facility	Hamilton	ON
7330	Distribution Facility	Calgary	AB
7403	Office space	Oshawa	ON
7404			
7405	Office space	Burlington	ON
7406			
7407	Office space	Burnaby	BC
7408			
7409			
7410	Office space	Edmonton	AB
7411	Office space	Calgary	AB
7412	Office space	Winnipeg	MB
7413	Office space	Montreal	QC
7414			
7415			
7416	Office space	Quebec City	QC
7417	Office space	Ottawa	ON
7418	Office space	Dartmouth	NS

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9730	Office space	Mississauga	ON
9731 7400 7401 7402 7419	Office space	Mississauga	ON

SCHEDULE "D"Real Property

<u>ID #</u>	<u>Description</u>	<u>City</u>	<u>Province</u>
7004	Park Place	Barrie	ON
7006	Candiac Power Centre	Candiac	QC
7012	Polo Park	Winnipeg	MB
7300	Distribution Facility	Milton	ON
7301	Distribution Facility	Calgary	AB
7302	Distribution Facility	Cornwall	ON