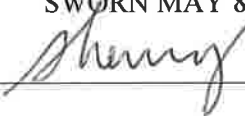


**TAB B**

THIS IS EXHIBIT "B" TO THE  
AFFIDAVIT OF MARK J. WONG

SWORN MAY 8, 2015



---

Commissioner for Taking Affidavits

*Stephanie Henry*

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

Execution Copy

**TARGET CANADA CO.**  
as the Assignor

- and -

**CANADIAN TIRE REAL ESTATE LIMITED**  
as the Assignee

---

**LEASE TRANSFER AGREEMENT**  
**MAY 5, 2015**

---

**OSLER, HOSKIN & HARCOURT LLP**

**TABLE OF CONTENTS**

	<b>Page</b>
<b>ARTICLE 1 DEFINITIONS.....</b>	<b>2</b>
1.1    Definitions .....	2
<b>ARTICLE 2 SALE TRANSACTION .....</b>	<b>7</b>
2.1    Offer and Acceptance .....	7
2.2    As Is, Where Is .....	8
<b>ARTICLE 3 PURCHASE PRICE .....</b>	<b>10</b>
3.1    Purchase Price.....	10
3.2    Deposit.....	10
3.3    Purchase Price Allocation.....	12
3.4    Assumed Liabilities .....	12
3.5    Letters of Credit and Deposits .....	12
3.6    Trade-Marks .....	13
<b>ARTICLE 4 ADJUSTMENTS.....</b>	<b>13</b>
4.1    Statement of Adjustments and Absence of Post-Closing Adjustments .....	13
4.2    Items of Adjustments Under the Leases .....	13
4.3    Realty Tax Appeals.....	14
4.4    Utilities .....	14
<b>ARTICLE 5 INTERIM PERIOD &amp; LEASE MATTERS .....</b>	<b>15</b>
5.1    Interim Period .....	15
5.2    Landlord Estoppel Certificate.....	17
5.3    Landlord Consents .....	17
5.4    Contracts .....	19
5.5    Releases .....	19
5.6    Access .....	19
5.7    Premises Documents.....	20
<b>ARTICLE 6 REPRESENTATIONS, WARRANTIES &amp; COVENANTS.....</b>	<b>20</b>
6.1    Assignor's Representations and Warranties .....	20
6.2    Assignee's Representations and Warranties .....	20
6.3    Assignee's Covenants .....	21
6.4    Assignor's Covenants .....	22
6.5    Tax Matters.....	22
6.6    Survival of Covenants.....	24
<b>ARTICLE 7 OTHER LOCATIONS .....</b>	<b>24</b>



**TABLE OF CONTENTS**  
(continued)

	Page
7.1 Restrictive Covenants .....	24
<b>ARTICLE 8 CLOSING .....</b>	<b>25</b>
8.1 Conditions of Closing for the Benefit of the Assignee .....	25
8.2 Conditions of Closing for the Benefit of the Assignor .....	25
8.3 Conditions of Closing for the Mutual Benefit of the Parties .....	25
8.4 Closing Documents .....	26
8.5 Closing Date .....	27
8.6 Confirmation of Satisfaction of Conditions .....	27
8.7 Closing .....	28
8.8 Filings and Authorizations .....	29
8.9 Court Matters .....	29
8.10 Termination .....	30
<b>ARTICLE 9 OTHER PROVISIONS .....</b>	<b>30</b>
9.1 Confidentiality .....	30
9.2 Leasehold Interests .....	31
9.3 Time of the Essence .....	31
9.4 Entire Agreement .....	31
9.5 Waiver .....	31
9.6 Further Assurances .....	31
9.7 Severability .....	32
9.8 Governing Law .....	32
9.9 English Language .....	32
9.10 Statute References .....	32
9.11 Headings .....	32
9.12 References .....	32
9.13 Number and Gender .....	33
9.14 Business Days .....	33
9.15 Currency and Payment Obligations .....	33
9.16 Notice .....	33
9.17 Subdivision Control Legislation .....	35
9.18 Solicitors as Agent and Tender .....	35
9.19 No Registration of Agreement .....	35
9.20 Third Party Costs .....	35
9.21 Interpretation .....	35
9.22 No Third Party Beneficiaries .....	36
9.23 Enurement .....	36
9.24 Counterparts and Delivery .....	36
<b>SCHEDULE "A" PREMISES .....</b>	<b>1</b>
<b>SCHEDULE "B" LEASE PARTICULARS .....</b>	<b>1</b>

**TABLE OF CONTENTS**  
(continued)

	Page
SCHEDULE "C" EXCLUDED ASSETS .....	1
SCHEDULE "D" INTENTIONALLY DELETED.....	1
SCHEDULE "E" <i>ONTARIO</i> SUPERIOR COURT OF JUSTICE COMMERCIAL LIST .....	1
SCHEDULE "F" ASSIGNEE'S GST/HST AND QST CERTIFICATE, UNDERTAKING AND INDEMNITY .....	1
SCHEDULE "G" FORM OF ASSIGNMENT AND ASSUMPTION OF ASSUMED LIABILITIES .....	1
SCHEDULE "H" FORM OF ASSIGNMENT AND ASSUMPTION OF LEASE.....	1
SCHEDULE "I" FORM OF ASSIGNMENT AND ASSUMPTION OF REALTY TAX APPEALS.....	1
SCHEDULE "J" INTENTIONALLY DELETED .....	1
SCHEDULE "K" PERMITTED ENCUMBRANCES.....	- 1 -

**THIS LEASE TRANSFER AGREEMENT** dated with effect as of May 5, 2015

**BETWEEN:**

**TARGET CANADA CO. (the "Assignor")**

**OF THE FIRST PART,**

- and -

**CANADIAN TIRE REAL ESTATE LIMITED  
(the "Assignee")**

**OF THE SECOND PART.**

**RECITALS:**

- A. The Assignor operates or operated a chain of retail department stores throughout Canada under the "Target" banner.
- B. The Assignor and certain of its affiliates applied for and together with the limited partnerships listed on Schedule "A" to the Initial Order (collectively, for the purposes of this Agreement described as the "Applicants") were granted protection by the Ontario Superior Court of Justice (Commercial List) (the "Court") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), and Alvarez & Marsal Canada Inc. (the "Monitor") was appointed the monitor of the Assignor, pursuant to an Order of the Court dated January 15, 2015, as amended and restated on February 11, 2015, and as further amended, restated and/or amended and restated from time to time (collectively, the "Initial Order").
- C. On February 11, 2015, the Court entered an order approving the process for the disposition of the Assignor's real property interests and the procedures set forth therein (as same may be amended from time to time, the "Sale Procedures").
- D. Pursuant to the Sale Procedures, the Assignee submitted a Qualified LOI for the purchase of certain leases and related interests and/or assets with respect to certain leased premises the Assignor uses or used in its operations, and has been invited to submit a Qualified Bid in accordance with the Sale Procedures.
- E. The Assignee hereby offers to acquire from the Assignor, the Assignor's right, title and interest in and to the Subject Assets including an assignment and an assumption of the Leases on the terms and conditions set out herein (the "Offer").
- F. This Agreement is subject to approval by the Court, and the completion of the Transaction is subject to the Court issuing the Approval and Vesting Order and the Monitor releasing the Monitor's Certificate, all as more particularly described herein.

- 2 -

**NOW THEREFORE**, in consideration of the mutual covenants and agreements set forth in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Assignor and the Assignee (individually, a "Party" and collectively, the "Parties") covenant and agree as follows:

## **ARTICLE 1 DEFINITIONS**

### **1.1 Definitions**

Unless otherwise provided for herein, all capitalized terms set out below when used in this Agreement shall have the meaning ascribed thereto unless the context expressly or by necessary implication otherwise requires:

"**Affiliate**" of any Person means, at the time the determination is made, any other Person Controlling, Controlled by, or under common Control with, that Person, whether directly or indirectly.

"**Agency Agreement**" has the meaning ascribed thereto in the Agency Agreement Order.

"**Agency Agreement Order**" means the Approval Order – Agency Agreement of the Court dated February 4, 2015, as amended, restated and/or amended and restated from time to time.

"**Agent**" has the meaning ascribed thereto in the Agency Agreement Order.

"**Agreement**" means this agreement constituted by the Assignor's acceptance of the Offer together with all schedules and instruments in written amendment or confirmation of it and the expression "**Section**" followed by a number means and refers to the ascribed thereto Section of this Agreement.

"**Applicants**" has the meaning ascribed thereto in Recital B.

"**Approval and Vesting Order**" means an order issued by the Court approving this Agreement and the transactions contemplated by this Agreement, and conveying to the Assignee all of the Assignor's right, title and interest in and to the Subject Assets free and clear of all Encumbrances other than the Permitted Encumbrances, which order shall be substantially in the form of Schedule "E".

"**Assignee**" has the meaning ascribed thereto on page 1 hereof.

"**Assignment and Assumption of Assumed Liabilities**" means an assignment by the Assignor and an assumption by the Assignee of the Assignor's right, title and interest and all liability, covenants and obligations in, to and under any Assumed Liabilities. The agreement evidencing same shall include an indemnity given by the Assignee in favour of the Assignor from and against any Claims arising and relating to the period from and after the Closing Date pursuant to or in connection with any of the Assumed Liabilities and shall be in substantially the form attached as Schedule "G".

"**Assignment and Assumption of Lease**" means, with respect to each Lease, an assignment by the Assignor and an assumption by the Assignee of the Assignor's right, title and interest and all

- 3 -

liability, covenants and obligations, as tenant in such Lease. The agreement evidencing same shall include an indemnity given by the Assignee in favour of the Assignor from and against any Claims arising and relating to the period from and after the Closing Date pursuant to or in connection with the Lease and/or the Property and shall be in substantially the form attached as Schedule "H".

**"Assignment and Assumption of Realty Tax Appeals"** means an assignment by the Assignor and an assumption by the Assignee of the Assignor's right, title and interest and all liability, covenants and obligations, in respect of the Realty Tax Appeals to be delivered on Closing. The agreement evidencing same shall be in substantially the form attached as Schedule "I".

**"Assignor"** has the meaning ascribed thereto on page 1 hereof.

**"Assumed Liabilities"** has the meaning ascribed thereto in Section 3.4(a).

**"Auctions"** has the meaning ascribed thereto in the Sale Procedures.

**"Authorization"** means, with respect to any Person, any order, permit, approval, waiver, licence or similar authorization of any Governmental Authority having jurisdiction over the Person.

**"Balance"** has the meaning ascribed thereto in Section 3.1(b).

**"Business Day"** means any day of the year, other than a Saturday, Sunday or any day on which major banks are closed for business in Toronto, Ontario.

**"CCAA"** has the meaning ascribed thereto in Recital B.

**"CCAA Proceedings"** means the proceedings commenced by the Applicants before the Court under the CCAA, court file no. CV-15-10832-00CL.

**"Claims"** means claims, demands, complaints, grievances, actions, applications, suits, causes of action, Orders, charges, indictments, prosecutions, informations or other similar processes, assessments or reassessments, equitable interests, options, preferential arrangements of any kind or nature, assignments, restrictions, financing statements, deposit arrangements, rights of others, leases, sub-leases, licences, rights of first refusal or similar restrictions, judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, including loss of value, reasonable professional fees, including fees and disbursements of legal counsel on a full indemnity basis, and all actual and documented costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing.

**"Closing"** has the meaning ascribed thereto in Section 8.5(a).

**"Closing Date"** has the meaning ascribed thereto in Section 8.5(a).

**"Closing Documents"** means those documents and deliveries to be delivered in connection with the Closing as contemplated in this Agreement including those set out in Section 8.4.

**"Competing Bidder"** has the meaning ascribed thereto in the Sale Procedures.

- 4 -

**"Confidentiality Agreement"** means, collectively, the confidentiality and non-disclosure agreement between Canadian Tire Corporation, Limited and the Assignor dated March 2, 2015 and accepted March 2, 2015, the confidentiality and non-disclosure agreement between Canadian Tire Corporation, Limited and the Assignor dated March 2, 2015 and accepted March 5, 2015, and the confidentiality and non-disclosure agreement between Canadian Tire Corporation, Limited and the Assignor dated March 18, 2015 and accepted March 18, 2015 with respect to confidentiality, access and other matters in connection with the Transaction, as amended or supplemented in writing from time to time.

**"Contracts"** means, collectively, all of the Assignor's contracts and agreements to enter into contracts with respect to the operation, fire protection, servicing, maintenance, repair and cleaning of the Premises, or the furnishing of supplies or services to the Premises, any property management or asset management contracts, any employment contracts and any insurance contracts entered into by the Assignor or any manager or agent on behalf of the Assignor with respect to the Premises or the Subject Assets.

**"Control"** means the direct or indirect power to direct the management and policies, business, or affairs of a Person whether through the ownership of voting securities, by contract, or otherwise, and for a corporation, has the meaning given to that term in the *Canada Business Corporations Act*, and the terms **"Controlled"** and **"Controlling"** have comparable meanings

**"Court"** has the meaning ascribed thereto in Recital B.

**"Cure Costs"** means the amount, if any, that must be paid by the Assignor to a Landlord in respect of a Lease in order for the Assignor, subject to the terms of the Initial Order, not to be in default of the financial terms of such Lease.

**"Data Site"** means the electronic data site maintained by the Financial Advisor with respect to information and material regarding the Subject Assets.

**"Deposit"** has the meaning ascribed thereto in Section 3.1(a).

**"Encumbrance"** means any restriction, reservation, easement, servitude, right-of-way, encroachment, mortgage, charge, pledge, hypothec, prior claims, lien (statutory or otherwise), security interest, title retention agreement or arrangement, assignment, claim, prior claim, liability (direct, indirect, absolute or contingent), obligation, trust, deemed trust, right of retention, judgment, writ of seizure or execution, notice of sale, contractual right, option, right of first refusal, or any other right or interest, of any nature or any other arrangement or condition whether or not registered, published or filed, statutory or otherwise, secured or unsecured.

**"Excise Tax Act"** means the *Excise Tax Act*, R.S.C., 1985, c. E-15, as amended, restated, supplemented or substituted from time to time.

**"Excluded Assets"** means those assets (in each case, as of the Closing Date) described in Schedule "C".

**"Execution Date"** means the date of this Agreement as set out on the top of page 1 hereof.

**"Financial Advisor"** means Lazard Frères & Co. LLC.

- 5 -

**"FF&E"** means: (a) all heating, ventilating and air conditioning equipment and all other equipment that is attached to the Premises, electric light fixtures, washroom fixtures, and elevating devices and equipment; and (b) all generators, balers and compactors located at each of the Premises other than: (i) a generator at Sudbury Mall; (ii) a baler or compactor at Northwest Centre (compactor at site is owned by a third party); (iii) a baler or compactor at Le Carrefour Rimouski; (iv) a baler at Driftwood Mall; and (v) a baler or compactor at Hillside Mall, in each case to the extent owned by the Assignor, and in all cases excluding the Excluded Assets.

**"Governmental Authorities"** means governments, regulatory authorities, governmental departments, agencies, agents, commissions, bureaus, officials, ministers, Crown corporations, courts, bodies, boards, tribunals or dispute settlement panels or other law or regulation-making organizations or entities: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

**"GST/HST and QST Certificate, Undertaking and Indemnity"** mean the Assignee's certificate to be in substantially the form set out in Schedule "F".

**"Initial Order"** has the meaning ascribed thereto in Recital B.

**"Interim Period"** means the period between the close of business on the Execution Date and the Closing on the Closing Date.

**"Inventory"** includes all inventory, stock, supplies and all other items to be sold from any of the Premises.

**"Joint Direction"** has the meaning ascribed thereto in Section 3.2(d).

**"Landlords"** means, collectively, the landlords under the Leases. Each of the Landlords is a "Landlord".

**"Landlord Consents"** has the meaning ascribed thereto in Section 5.3(a).

**"Laws"** means any and all applicable laws, including all statutes, codes, ordinances, decrees, rules, regulations, municipal by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, ruling or awards, and general principles of common and civil law and equity, binding on or affecting the Person referred to in the context in which the word is used.

**"Leases"** means the leases and other agreements to occupy the Premises, or other related agreements for the Premises, entered into by, or assigned in favour of, the Assignor, in each case listed in Schedule "B". If the Premises comprise more than one leased location, the Leases related to any one leased location are referred to as a "Lease".

**"Letters of Credit"** means the following letters of credit, letters of guarantee, deposits and/or security deposits which have been provided by or on behalf of the Assignor to any third party in respect of any of the Subject Assets: letter of credit in the amount of \$77,753 issued to the City

- 6 -

of Courtenay, letter of credit in the amount of \$67,000 issued to The City of Greater Sudbury and letter of credit in the amount of \$3,252 issued to the City of Cranbrook.

**"Monitor"** has the meaning ascribed thereto in Recital B.

**"Monitor's Certificate"** means the certificate filed with the Court by the Monitor certifying receipt of confirmation from the Assignee and the Assignor that all conditions of Closing in Sections 8.1, 8.2 and 8.3 of this Agreement have been satisfied or waived.

**"Notice"** has the meaning ascribed thereto in Section 9.16.

**"Off-Title Compliance Matters"** means open permits or files, work orders, Orders, deficiency notices, directives, notices of violation, non-compliance and/or complaint and/or other outstanding matters or matters of non-compliance with the zoning and/or other requirements of any Governmental Authorities or any open building permits.

**"Offer"** has the meaning ascribed thereto in Recital E.

**"Orders"** means orders, injunctions, judgments, administrative complaints, decrees, rulings, awards, assessments, directions, instructions, penalties or sanctions issued, filed or imposed by any Governmental Authority or arbitrator.

**"Outside Date"** has the meaning ascribed thereto in the Sale Procedures.

**"Permitted Encumbrances"** means, collectively: (a) any Encumbrances encumbering the freehold or other ownership interest in the Property or any other Landlord's interest in the Property, but excludes any Encumbrances solely encumbering the Assignor's leasehold interest in and to any Property on which the Premises are located; (b) Encumbrances resulting from the Assignee's actions or omissions; and (c) the items identified in Schedule "K" hereto.

**"Person"** means an individual, partnership, corporation, trust, unincorporated organization, company, government, or any department or agency thereof, and the successors and assigns thereof or the heirs, executors, administrators or other legal representatives of an individual.

**"Plans"** means all documentation in the Assignor's possession relevant to the construction of the Premises including working drawings, detail drawings, shop drawings, "as built" plans, structural, mechanical, electrical and engineering plans, site plans, and other documentation prepared to illustrate or define a particular aspect of the Premises, other than plans depicting the Assignor's merchandise layout or similar proprietary plans disclosing the Assignor's merchandising plans and layout of the Trade Fixtures.

**"Premises"** means, collectively, the lands and premises which are leased to the Assignor pursuant to the Leases.

**"Property"** means collectively, the real or immovable property of which the Premises form part for the purposes of the Leases and includes the Landlords' freehold or other ownership interest, ground leasehold interest or right of emphyteusis therein.

**"Purchase Price"** has the meaning ascribed thereto in Section 3.1.



- 7 -

**"Qualified Bid"** has the meaning ascribed thereto in the Sale Procedures.

**"Qualified Bid Deadline"** has the meaning ascribed thereto in the Sale Procedures.

**"Qualified LOI"** has the meaning ascribed thereto in the Sale Procedures.

**"Realty Tax Appeals"** has the meaning ascribed thereto in Section 4.3(a).

**"Realty Tax Refunds"** has the meaning ascribed thereto in Section 4.3(c).

**"Sale Procedures"** has the meaning ascribed thereto in Recital C.

**"Subject Assets"** means all of the right, title and interest of the Assignor, if any, in and to: (a) the Leases; (b) the Realty Tax Appeals and Realty Tax Refunds; and (c) the FF&E, but excludes the Assignor's right, title and interest in and to each of the Excluded Assets and any and all other assets of the Assignor relating to the Premises not included in the foregoing.

**"Successful Bid"** has the meaning ascribed thereto in the Sale Procedures.

**"Successful Bidder"** has the meaning ascribed thereto in the Sale Procedures.

**"Taxes"** means taxes, duties, fees, premiums, assessments, imposts, levies and other similar charges imposed by any Governmental Authority under applicable Laws, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Authority in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, registration, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, franchising, property, development, and occupancy taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, and all licence, franchise and registration fees.

**"Target"** means Target Corporation and its successors and assigns.

**"Trade Fixtures"** means the fixtures, shelves, counters, equipment, and other improvements used in connection with the operation of the Subject Assets located at the Premises on the Closing Date and which are owned, leased or licensed by the Assignor.

**"Transaction"** means collectively the transactions contemplated in this Agreement.

**"Transaction Agreement"** means the amended and restated transaction agreement dated September 12, 2011 between Zellers Inc., Hudson's Bay Company, Target and the Assignor.

**"Zellers Entity"** means Zellers Inc., Hudson's Bay Company or any of their affiliates.

## ARTICLE 2 SALE TRANSACTION

### 2.1 Offer and Acceptance

- (a) Subject to the Initial Order and the Sale Procedures, the Assignor hereby agrees to sell, assign and transfer to the Assignee, and the Assignee hereby agrees to

- 8 -

purchase and assume from the Assignor, the Subject Assets on the Closing Date in accordance with the terms and conditions of this Agreement.

- (b) The Offer shall be irrevocable by the Assignee until May 5, 2015.
- (c) Upon acceptance of this Offer by the Assignor, this Offer shall constitute a binding agreement to acquire the Subject Assets, on the terms of this Agreement.

## 2.2 As Is, Where Is

Notwithstanding the foregoing or anything else contained herein or elsewhere, the Assignee acknowledges and agrees in favour of the Assignor that as of the Execution Date and the Closing Date:

- (a) Save as expressly provided in this Agreement, the Assignee is purchasing the Subject Assets (including the state of title thereto and/or the state of any Permitted Encumbrances) and accepting and assuming the Subject Assets on an "as is, where is" basis, without any written or oral statements, representations, warranties, promises or guaranties of any nature or kind whatsoever, either legal or conventional, express or implied (by operation of law or otherwise), as to the condition of any of the Subject Assets, the Leases and the status of any of the Leases, Permitted Encumbrances, the rentable area of the Premises, the existence of any default on the part of the Assignor or Landlords, the physical, environmental or other condition of, in, on, under or in the vicinity of any of the Premises, the use permitted at any of the Premises, the existence of any Off-Title Compliance Matters affecting the Subject Assets, the Premises or the Assignor's leasehold interest therein, where applicable, the Assumed Liabilities, or any other aspects of any of the Subject Assets and the Permitted Encumbrances, the structural integrity or any other aspect of the physical condition of the Premises, the conformity of the Premises to past, current or future applicable zoning or building code requirements or other applicable Laws, the existence of soil instability, past soil repairs, soil additions or conditions of soil fill or any other matter affecting the stability or integrity of the Premises, the sufficiency of any drainage, the availability of public utilities, access, parking and/or services for the Premises, the fitness or suitability of the Premises for occupancy or any intended use (including matters relating to health and safety), the potential for further development of the Premises, the existence of land use, zoning or building entitlements affecting the Premises, the presence, release or use of wastes of any nature, hazardous materials, pollutants, contaminants or other regulated substances in, under, on or about the Premises or any neighbouring lands; and without limiting the foregoing, any and all conditions or warranties expressed or implied pursuant to the *Sale of Goods Act (Ontario)* will not apply and are hereby waived by the Assignee and the Parties agree to exclude the effect of the legal warranty provided for by Article 1716 of the Civil Code of *Québec* and that the Assignee is purchasing the Subject Assets at its own risk within the meaning of Article 1733 of the Civil Code of *Québec*;
- (b) any disclosure in respect of any of the Subject Assets was made available to the Assignee solely as a courtesy but the Assignee is not entitled to rely on such

- 9 -

disclosure, and it is expressly acknowledged by the Assignee that no written or oral statement, representation, warranty, promise or guarantee of any nature or kind whatsoever, either legal or conventional, express or implied (by operation of law or otherwise), is made by the Assignor and/or the Monitor and/or their respective legal counsel, the Financial Advisor or other advisors or representatives as to the accuracy, currency or completeness of any such disclosure, and each of them expressly disclaims any and all liabilities with respect to such disclosure and any and all errors therein or omissions therefrom;

- (c) the Assignee hereby unconditionally and irrevocably waives any and all actual or potential rights or Claims the Assignee might have against the Assignor pursuant to any warranty, legal or conventional, express or implied, of any kind or type relating to the Subject Assets or any other assets or any other aspect of the Transaction. Such waiver is absolute, unlimited and includes, but is not limited to, waiver of express warranties, implied warranties, any warranties at law and/or in equity, warranties of fitness for a particular use, warranties of merchantability, warranties of occupancy, strict liability and Claims of every kind and type, including, but not limited to, Claims regarding defects, whether or not discoverable, product liability Claims, or similar Claims, and to all other extent or later created or conceived of strict liability or strict liability type Claims and rights;
- (d) the Assignee conducted its own independent review, inspection, diligence and investigations and forming its own independent opinions and conclusions in respect of the Subject Assets;
- (e) the Assignee has received a copy of the Leases and is familiar with the terms, agreements, covenants, obligations and conditions therein. The Assignee shall be solely responsible for negotiating with and attempting to obtain the agreement of any Landlord to amend a Lease as may be required by the Assignee to allow the Assignee to use the respective Premises for its purposes. For greater certainty, such amendments are not a Closing delivery or a condition of Closing;
- (f) subject to Section 2.2(h), the Assignor shall not be responsible for making any repairs, replacements, renovations, alterations, improvements or upgrades in or to the Premises or any part thereof except where required as the result of damage to the Premises caused by the Assignor or its employees, contractors or agents between the Execution Date and the Closing Date, and it shall be the sole responsibility of the Assignee to make, at the Assignee's sole cost, any repairs, replacements, renovations, alterations, improvements and upgrades in or to the Premises in accordance with the Leases as may be required by the Assignee to make the Premises suitable for its purposes;
- (g) the Assignor has no responsibility to pay any form of tenant inducement, tenant allowance, or other lease-takeover payment to the Assignee;
- (h) the Assignor will deliver possession of the FF&E on the Closing Date without a bill of sale, representation, warranty or other title documentation and shall make no adjustment to the Purchase Price with respect thereto; and

- 10 -

- (i) the Subject Assets may be subject to certain Off-Title Compliance Matters, municipal requirements, including building or zoning by-laws and regulations, servitudes, easements for hydro, gas, telephone affecting the Subject Assets, and like services to the Premises, and restrictions and covenants affecting the Premises, including but not limited to the Permitted Encumbrances. Without limiting the foregoing, the Assignor shall not be responsible for rectification of any matters disclosed by any Governmental Authority or quasi-governmental authority having jurisdiction.

The Assignor has no and shall have no obligations or responsibility to the Assignee after Closing with respect to any matter relating to the Subject Assets or the condition thereof save and only to the extent expressly provided in this Agreement. This Section 2.2 shall survive and not merge on Closing and all Closing Documents shall incorporate this Section 2.2 by reference.

### ARTICLE 3 PURCHASE PRICE

#### 3.1 Purchase Price

The Purchase Price for the Subject Assets shall be **SEVENTEEN MILLION SIX HUNDRED AND FIFTY-FOUR THOUSAND DOLLARS (\$17,654,000.00)** (the "Purchase Price") exclusive of all Taxes. Subject only to adjustment in accordance with this Agreement, the Purchase Price shall be paid to the Assignor as follows:

- (a) as to the sum of **TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000.00)** (the "Deposit"), by wire transfer of immediately available funds from any of the five largest (by asset size) Canadian Schedule I chartered banks pursuant to the Large Value Transfer System as administered by the Canadian Payments Association payable to or to the order of the Monitor, in trust, or as it may otherwise direct in writing, on or prior to 3:00 p.m. (Toronto time) on the Business Day following the Execution Date, to be held in trust as a deposit and invested in accordance with the provisions of Section 3.2 below pending the completion or other termination of this Agreement; and
- (b) as to the balance of the Purchase Price (the "Balance"), subject only to the adjustments made in accordance with this Agreement, by wire transfer of immediately available funds from any of the five largest (by asset size) Schedule I Canadian chartered banks pursuant to the Large Value Transfer System as administered by the Canadian Payments Association payable to the Monitor or as it may direct on the Closing Date.

#### 3.2 Deposit

- (a) Following receipt, the Deposit shall be invested by the Monitor, in trust, in an interest bearing account or term deposit or guaranteed investment certificate with or issued by one of the five (5) largest (by asset size) Canadian Schedule I Canadian chartered banks pending completion of the Transaction or earlier termination or non-completion of this Agreement. In holding and dealing with the Deposit and any interest earned thereon pursuant to this Agreement, the Monitor is not bound in any way by any agreement other than this Section 3.2, and the Monitor shall not and shall

- 11 -

not be considered to assume any duty, liability or responsibility other than to hold the Deposit, and any interest earned thereon, in accordance with the provisions of this Section 3.2, and to pay the Deposit, and any interest earned thereon, to the Person becoming entitled thereto in accordance with the terms of this Agreement, except in the event of a dispute between the Parties as to entitlement to the Deposit. In the case of such dispute, the Monitor may, in its sole, subjective and unreviewable discretion, or shall, if requested by any of the Parties, pay the Deposit and any and all interest earned thereon into Court, whereupon the Monitor shall have no further obligations relating to the Deposit or any interest earned thereon. The Monitor shall not, under any circumstances, be required to verify or determine the validity of any notice or other document whatsoever delivered to the Monitor and the Monitor is hereby relieved of any liability or responsibility for any Claims which may arise as a result of the acceptance by the Monitor of any such notice or other document in good faith.

- (b) If the Transaction is completed, the Deposit shall be paid to the Assignor forthwith on Closing and applied to the Purchase Price. Interest on the Deposit shall accrue from the date of deposit with the Monitor until the Closing or other termination or non-completion of this Agreement. If the Transaction is successfully, completed, all interest earned on the Deposit until Closing shall be paid to the Assignee within five (5) Business Days of Closing.
- (c) If the Transaction is terminated or not completed by reason of a breach by the Assignee of its representations, warranties or covenants or other default of the Assignee under this Agreement, the full amount of the Deposit together with all accrued interest earned thereon, if any, shall become the absolute property of, and may be retained by, the Assignor as liquidated damages (and not as a penalty) to compensate the Assignor for the expenses incurred and the delay caused and opportunities foregone as a result of the failure of the Transaction to close. The entitlement of the Assignor to receive and retain the Deposit together with all accrued interest earned thereon, if any, in such circumstances shall not limit the Assignor's right to exercise any other rights or remedies which the Assignor may have against the Assignee in respect of such breach or default. If the Transaction is terminated or not completed for any other reason, the Deposit together with all interest accrued thereon if, any shall be thereupon returned to the Assignee.
- (d) In holding and dealing with the Deposit and any interest earned thereon pursuant to this Agreement, the Monitor shall release the Deposit and any interest earned thereon to the Persons becoming entitled thereto in accordance with the provisions of this Section 3.2 as evidenced by a joint direction in writing executed by the Assignor and the Assignee (the "Joint Direction") except in the event of a dispute between the Parties as to entitlement to the Deposit and any interest earned thereon in which event the Monitor may, in its sole, unfettered and unreviewable discretion, pay the Deposit and any interest earned thereon into Court, whereupon the Monitor shall have no further obligations relating to the Deposit and any interest earned thereon or otherwise hereunder.
- (e) The Monitor shall not, under any circumstances, be required to verify or determine the validity of the Joint Direction and the Monitor is hereby relieved of

any liability or responsibility for any loss or damage which may arise as the result of the acceptance by the Monitor of the Joint Direction in good faith.

- (f) Notwithstanding the foregoing or anything else contained herein or elsewhere, each of the Assignor and the Assignee acknowledges and agrees that: (i) the Monitor's obligations hereunder are and shall remain limited to those specifically set out in this Section 3.2; and (ii) Alvarez & Marsal Canada Inc. is acting solely in its capacity as the Court-appointed Monitor of the Assignor in the CCAA Proceedings and not in its personal or corporate capacity, and the Monitor has no liability in connection with this Agreement whatsoever, in its personal or corporate capacity or otherwise, save and except for and only to the extent of the Monitor's wilful misconduct.
- (g) The Parties acknowledge that the Monitor may rely upon the provisions of this Section 3.2 notwithstanding that the Monitor is not a party to this Agreement. The provisions of this Section 3.2 shall survive the termination or non-completion of the Transaction.

### 3.3 Purchase Price Allocation

- (a) On or prior to the Closing Date, the Assignor and the Assignee, each acting reasonably, shall agree as to the allocation of the Purchase Price as between the Subject Assets. The Assignor and the Assignee shall adopt such allocations for the purposes of all tax returns, elections and filings respectively made by them or on their behalf provided that if the parties cannot agree upon such an allocation, on or prior to the Closing Date, the Agreement shall still constitute a binding agreement and the Transaction shall proceed.
- (b) This Section 3.3 shall survive Closing.

### 3.4 Assumed Liabilities

- (a) The Assignee covenants with the Assignor that it shall, as and from the Closing Date, assume, discharge, perform and fulfill all the obligations and liabilities on the part of the Assignor with respect to the Permitted Encumbrances in respect of the period on or after the Closing Date (collectively, the "Assumed Liabilities").
- (b) Without limiting the foregoing, the Assignee shall execute and deliver to the Assignor on the Closing Date: (i) an Assignment and Assumption of Lease for each Lease; (ii) the Assignment and Assumption of Assumed Liabilities; (iii) an Assignment and Assumption of Realty Tax Appeals; and (iv) such information, deliveries, documentation and assurances that other parties to the Leases or a Permitted Encumbrance may require from time to time.

### 3.5 Letters of Credit and Deposits

On the Closing Date, the Assignee shall issue replacement letters of credit and/or security deposits for the Letters of Credit and shall use its reasonable commercial efforts to cause the

Letters of Credit to be released and returned to the Assignor without any further drawings thereunder.

### **3.6 Trade-Marks**

Notwithstanding the foregoing or anything else contained herein or elsewhere, the Assignee acknowledges and agrees that: (a) no signs, trade-marks, trade-names, logos, commercial symbols, business names or other intellectual property rights identifying "Target" or "Target Canada" are conveyed or intended to be conveyed to the Assignee as part of the Subject Assets; and (b) all right, title and interest of the Assignor in and to all of its existing signs, trade-marks, trade-names, logos, commercial symbols, business names or other intellectual property rights identifying "Target" or "Target Canada" or containing the words "Target" are hereby specifically reserved and excluded from the Subject Assets. This Section shall survive and not merge on Closing.

## **ARTICLE 4 ADJUSTMENTS**

### **4.1 Statement of Adjustments and Absence of Post-Closing Adjustments**

The Assignor shall prepare a statement of adjustments and deliver same with supporting documentation to the Assignee no later than seven (7) Business Days prior to the Closing Date. If the amount of any adjustments required to be made pursuant to this Agreement cannot be reasonably determined as of the Closing Date, an estimate shall be made by the Parties as of the Closing Date based upon the best information available to the Parties at such time, each Party acting reasonably and such estimate shall serve as a final determination. There shall be no further adjustments or readjustments after Closing of any amounts adjusted or intended to be adjusted on the statement of adjustments pursuant to this Agreement and the amounts set out on the statement of adjustments shall be final.

### **4.2 Items of Adjustments Under the Leases**

- (a) The Assignor and the Assignee shall adjust as between themselves the rent (including basic or minimum rent and additional rent) and other amounts payable under each of the Leases which have been paid or pre-paid to the Landlords in respect of each of the Leases for any period prior to the Closing Date as well as the month in which the Closing Date occurs, with the Closing Date itself to be allocated to the Assignee.
- (b) Without limiting the generality of the foregoing, the Assignor and the Assignee shall as of the Closing Date adjust between themselves the following amounts:
  - (i) basic or minimum rent and amounts payable on account of realty taxes and common area charges for the month in which the Closing occurs;
- (c) From and after the Closing Date, any and all required adjustments to rent (including basic or minimum rent and additional rent) and/or other amounts payable on the part of the Assignor to be paid from time to time under the Leases, pursuant to any invoice or statement issued on or after the Closing Date, in



respect of the period prior to the Closing Date, shall be the sole responsibility of the Assignor, and there shall be no adjustments between the Assignor and the Assignee of any amount paid to any Landlord by the Assignor pursuant to any such invoice or statement issued on or after the Closing Date.

- (d) The Assignee shall be responsible for and pay any rent, fees or charges payable to the Landlords under the Leases in respect of this Transaction, including, any rent, fees or charges payable to the Landlords in respect of an assignment of any Lease or any consent thereto.
- (e) The Assignee shall be responsible for and pay all applicable land transfer taxes, registration fees, GST/HST and QST payable in connection with the transfer of any of the Subject Assets by the Assignor to the Assignee.
- (f) The Assignor shall be solely responsible for and pay all Cure Costs, if any, payable in connection with the assignment of the Leases to the Assignee.

#### **4.3 Realty Tax Appeals**

- (a) The Assignor and the Assignee acknowledge that with respect to the Premises the Assignor may have instituted certain appeals and/or claims in respect of realty taxes or assessments for certain periods prior to the Closing Date and possibly including the tax year in which the Closing Date occurs (all such appeals and any associated reassessments are hereinafter collectively referred to as the "Realty Tax Appeals").
- (b) On Closing, the Assignor shall assign to the Assignee all of its right, title and interest, if any, in and to such Realty Tax Appeals and in and to any credit, refund and/or rebate which may arise from any of the Realty Tax Appeals for any period whether prior to or from and after the Closing Date (collectively, the "Realty Tax Refunds").
- (c) From and after the Closing Date, the Assignee may, at its sole cost and expense but without any obligation to do so, assume or retain the carriage of the Realty Tax Appeals and continue as the appellant in the Realty Tax Appeals. The Assignor agrees to co-operate with the Assignee with respect to the Realty Tax Appeals and to provide the Assignee with access to any reasonably necessary documents or materials required to continue any Realty Tax Appeals. If the Realty Tax Appeals may only be prosecuted in the name of the Assignor, the Assignor shall cooperate with the Assignee, including granting such authorizations as may be reasonably required, to enable the Assignee to pursue and prosecute such Realty Tax Appeals, at the Assignee's sole cost and expense.

This Section 4.3 shall survive and not merge on Closing.

#### **4.4 Utilities**

- (a) The Assignee shall not assume any contracts or agreements entered into by or on behalf of the Assignor for the supply of any utilities (including electricity, gas,



- 15 -

water, fuel, telephone service, internet services, security and surveillance services or otherwise) at the Premises. On or before the Closing Date, the Assignor shall terminate all of its contracts and agreements for the supply of any utilities to the Premises. For the avoidance of doubt, there shall be no adjustment at Closing in respect of the payment of any utilities and the Assignor shall be solely responsible for payment of all utility charges relating to the period prior to the Closing Date. The provisions of this Section 4.4(a) shall survive and not merge on Closing.

- (b) From and after the Closing Date, any and all utility charges and other related fees payable for any of the Premises, pursuant to any invoice or statement issued on or after the Closing Date and relating to the period from and after the Closing Date, shall be the sole responsibility of the Assignee, and there shall be no adjustments between the Assignor and the Assignee of any utility charges or related fees paid by the Assignee pursuant to any such invoice or statement issued on or after the Closing Date and relating to the period from and after the Closing Date.

## ARTICLE 5 INTERIM PERIOD & LEASE MATTERS

### 5.1 Interim Period

- (a) During the Interim Period, the Assignor shall comply with each and every term and condition of the Leases as currently applicable in the CCAA Proceedings, subject only to the provisions of the Initial Order, the Agency Agreement Order, the Sale Procedures and the provisions of this Section.
- (b) During the Interim Period, the Assignor by itself or through its Agent under the Agency Agreement shall be entitled to remove and sell, or permit any other Persons to remove and sell, any and all chattels, personal property, Inventory, Trade Fixtures and any other Excluded Assets or item of the type listed in Schedule "C", from the Premises in accordance with this Agreement, the Initial Order, the Agency Agreement Order and the Sale Procedures.
- (c) The Assignor's obligations to operate in, repair or re-instate the Premises shall be governed and limited by the terms and conditions of the Initial Order and the Sale Procedures.
- (d) In the event that prior to the Closing Date all or a material part of the Premises is expropriated or notice of expropriation or intent to expropriate all or a material part of the Premises is issued by any Governmental Authority, the Assignor shall immediately advise the Assignee thereof by Notice in writing. The Assignee shall have the option, exercisable by Notice in writing given within ten (10) Business Days after the Assignee receives such Notice in writing from the Assignor, to either:
  - (i) complete the Transaction contemplated herein in accordance with the terms hereof without reduction of the Purchase Price and all compensation for expropriation shall be payable to the Assignee and all right, title and

- 16 -

interest of the Assignor to such amounts, if any, shall be assigned to the Assignee on a without recourse basis; or

- (ii) terminate this Agreement solely as it relates to the specific Premises which are the subject of the Notice, in which case this Agreement shall be deemed amended to delete the Lease for those Premises, and the Purchase Price will be reduced by an amount agreed upon by the Parties, both acting reasonably, provided that in the absence of agreement by the Parties within five (5) Business Days of the Assignee's election to terminate, the final amount shall be determined by an independent appraiser mutually acceptable to the Parties, each acting reasonably, with such appraiser's costs being shared equally between the Parties (in this Section, the "Allocated Purchase Price") and all obligations of the Assignee in respect of that Lease (except for those obligations which are expressly stated to survive the termination of this Agreement) shall terminate forthwith upon the Assignee giving Notice as required herein, and a portion of the Deposit equal to ten percent (10%) of the Allocated Purchase Price together with all interest earned on such amount, if any, shall be thereupon returned to the Assignee. In that event the Parties shall proceed to complete the Transaction on the Closing Date in accordance with the terms of this Agreement with respect only to the remaining Leases and the related Subject Assets and this Agreement shall continue to apply *mutatis mutandis* to the remaining Leases and related Subject Assets in accordance with the terms and conditions hereof.

If the Assignee fails to deliver Notice within such ten (10) Business Day period, it will be deemed to have elected the option in (i) above.

- (c) The Subject Assets shall be and remain until Closing at the risk of the Assignor. In the event of material damage by fire or other hazard to the Premises or any part thereof occurring before the Closing Date, the Assignor shall immediately advise the Assignee thereof by Notice in writing. The Assignee shall have the option, exercisable by Notice in writing given within ten (10) Business Days after the Assignee receives such Notice in writing from the Assignor, to either:
- (i) complete the Transaction contemplated herein in accordance with the terms hereof without reduction of the Purchase Price and the proceeds of any insurance available or actually paid or payable to the Assignor shall be paid and/or assigned to the Assignee; or
- (ii) terminate this Agreement solely as it relates to the specific Premises which are the subject of the Notice, in which case this Agreement shall be deemed amended to delete the Lease for those Premises, and the Purchase Price will be reduced by an amount agreed upon by the Parties, both acting reasonably, provided that in the absence of agreement by the Parties within five (5) Business Days of the Assignee's election to terminate, the final amount shall be determined by an independent appraiser mutually acceptable to the Parties, each acting reasonably, with such appraiser's costs being shared equally between the Parties (in this Section, the

- 17 -

“Allocated Purchase Price”) and all obligations of the Assignee in respect of that Lease (except for those obligations which are expressly stated to survive the termination of this Agreement) shall terminate forthwith upon the Assignee giving Notice as required herein, and a portion of the Deposit equal to ten percent (10%) of the Allocated Purchase Price together with all interest earned on such amount, if any, shall be thereupon returned to the Assignee. In that event the Parties shall proceed to complete the Transaction on the Closing Date in accordance with the terms of this Agreement with respect only to the remaining Leases and the related Subject Assets and this Agreement shall continue to apply *mutatis mutandis* to the remaining Leases and related Subject Assets in accordance with the terms and conditions hereof.

If the Assignee fails to deliver Notice within such ten (10) Business Day period, it will be deemed to have elected the option in (i) above.

- (f) During the Interim Period, the Assignor shall not take any action to interrupt the services of all utilities (including electricity, gas, water and fuel) currently maintained to the Premises.

## 5.2 Landlord Estoppel Certificate

The Assignor shall not be obligated to obtain any acknowledgement, status certificate or estoppel certificate in respect of any Lease from any Landlord.

## 5.3 Landlord Consents

- (a) The Assignee 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 the Assignor to the Assignee, to the extent same is required by the terms of the Leases (collectively, the “Landlord Consents” and each a “Landlord Consent”) subject to the terms of this Agreement as well as the terms of the Approval and Vesting Order. The Assignor agrees to co-operate with and assist the Assignee in pursuing and obtaining the Landlord Consents. The Assignee shall provide such reasonable information as is requested by a Landlord (including reasonable financial information, financing structure and proposed management team for the business), and certificates of insurance, and shall execute and deliver any necessary acknowledgements and assumption agreements required by a Landlord as a condition to the issuance of its consent that are commercially reasonable or otherwise contemplated by the applicable Lease
- (b) The Assignee agrees to co-operate with and assist the Assignor in pursuing and obtaining the Approval and Vesting Order for the sale of the Subject Assets including the assignment and assumption of the Leases. The Assignee’s co-operation includes, but is not limited to, providing any reasonable information requested by the Court (including reasonable financial information, financing structure and proposed management team for the business), providing certificates of insurance, and executing and delivering any necessary acknowledgements, and

- 18 -

assumption agreements required by the Court as a condition to the issuance of the Approval and Vesting Order.

- (c) The Assignor shall be responsible for any and all expenses and fees in connection with obtaining the Landlord Consents, provided that the Assignee shall be responsible for any and all expenses and fees in connection with obtaining amendments to the Leases, and provided further that the Assignor shall be responsible for the payment of any Cure Costs. Any Landlord Consent must be on terms which are acceptable to each of the Assignor and the Assignee, each acting reasonably.
- (d) If the Assignee is unable to obtain the written consent of a Landlord to the assignment of the respective Lease to the Assignee on terms acceptable to the Assignee and the Assignor, the Assignor covenants to include in its application for the Approval and Vesting Order, an application for an Order of the Court assigning all of the rights and obligations of the Assignor under such Leases to the Assignee and compelling or deeming the applicable Landlord Consents or the equivalent thereof. The Assignee agrees to accept such assignment of all of the rights and obligations of the Assignor under the Leases pursuant to the Approval and Vesting Order.
- (e) For greater certainty, the Assignee acknowledges and agrees that:
  - (i) it is not entitled to request any amendments of the terms of any Lease in connection with obtaining any Landlord Consent or Court approval for the sale of any of the Subject Assets or the assignment of any of the Leases. However, the Assignee may enter into a conditional agreement with a Landlord in connection with lease amendments, provided that no lease amendments shall be requested in connection with obtaining any Landlord Consent or Court approval of the assignment of the Leases as provided hereunder;
  - (ii) nothing herein shall prohibit the Assignor from seeking a release from the Landlords in respect of the obligations of the Assignor and/or Target in respect of any or all of the Leases before or after Closing;
  - (iii) the applicable Landlord Consent will not be required if such Landlord's consent is not required to effect the Transaction or is granted, deemed granted or deemed not to be necessary as a result of the Approval and Vesting Order; and
  - (iv) the Assignee's rights and remedies in respect of the Leases and the Premises shall also be subject to the provisions of the Initial Order and the Sale Procedures.
- (f) The Parties agree that in the event they are not able to obtain the Landlord Consent or an Approval and Vesting Order in respect of any Lease on or before the date set out in Section 8.3(a), the Parties shall proceed to complete the Transaction on the Closing Date in accordance with the terms of this Agreement

with respect to those Leases for which the Parties have received an Approval and Vesting Order and this Agreement shall be deemed amended to delete the Lease for which the Landlord Consent and/or Approval and Vesting Order has not been obtained from this Agreement and the Purchase Price will be reduced by an amount agreed upon by the Parties, both acting reasonably, provided that in the absence of agreement by the Parties, the final amount shall be determined by an independent appraiser mutually acceptable to the Parties, each acting reasonably, with such appraiser's costs being shared equally between the Parties. For greater certainty, this Agreement shall continue to apply *mutatis mutandis* to the remaining Leases and related Subject Assets in accordance with the terms and conditions hereof. The Parties further agree that if an Approval and Vesting Order is issued and entered by the Court in respect of any Lease but not all of the Subject Assets, at the Assignor's option, in its sole, unfettered and unreviewable discretion, upon notice to the Assignee to be given within five (5) Business Days of issuance of such Approval and Vesting Order, the Closing Date for such Lease and related Subject Assets shall be the date that is three (3) Business Days following the Assignee's receipt of such notice and this Agreement shall continue to apply *mutatis mutandis* to the remaining Leases and related Subject Assets in accordance with the terms and conditions hereof.

#### **5.4 Contracts**

The Assignor covenants to terminate effective as of the Closing Date, at its sole cost and expense, all Contracts insofar as they relate to the Premises.

#### **5.5 Releases**

Until Closing, the Assignee shall use reasonable efforts, at no cost to the Assignee, to assist the Assignor and shall co-operate with the Assignor, as reasonably requested, to obtain from Landlords a full release of the Assignor's and Target's obligations under the Leases and/or any guarantee or indemnity provided in respect of the obligations of the tenant under the Leases, as applicable, provided that the Assignee shall not be required to take on any liability nor to incur any costs in exchange for or in connection with such releases.

#### **5.6 Access**

During the Interim Period, the Assignee and its agents, advisors, consultants, employees and representatives will have access to the Premises upon reasonable prior written Notice of not less than two (2) Business Days to the Assignor for the purpose of visiting and conducting non-invasive inspections of the Premises. The Assignor may accompany the Assignee and its agents, consultants, employees and representatives on any site visits or non-invasive inspections. The Assignee is not liable for any damages or losses incurred by the Assignor arising from Assignee's discovery of adverse facts or conditions with respect to the Premises, which facts or conditions were not otherwise caused, exacerbated or aggravated by the Assignee's activities on the Premises, or any pre-existing condition on the Premises except to the extent exacerbated or aggravated by Assignee. Any damage to the Subject Assets caused by such site visits or inspections or otherwise by the Assignee or those for whom they are responsible at law will be promptly repaired, and the Subject Assets reinstated, by the Assignee and the Assignee will indemnify and save the Assignor harmless from all Claims which the Assignor may suffer as a

result thereof or any other breach of this Section by the Assignee. This Section shall survive the Closing or termination of this Agreement.

### 5.7 Premises Documents

The Assignor shall, within five (5) Business Days of the Execution Date, deliver or make available (including by posting on the Data Site) to the Assignee, to the extent in the Assignor's possession: (i) all Plans of the Premises to the extent available on the Data Site on the Execution Date; (ii) copies of all non-disturbance agreements granted by existing mortgagees of the Premises in favour of the Assignor or any previous tenant of the Premises; and (iii) copies of all outstanding Letters of Credit in respect of the Premises.

## ARTICLE 6 REPRESENTATIONS, WARRANTIES & COVENANTS

### 6.1 Assignor's Representations and Warranties

The Assignor represents and warrants to and in favour of the Assignee that as of the Execution Date and as of Closing as to the following and acknowledges and confirms that the Assignee is relying upon such representations and warranties in connection with the entering into of this Agreement:

- (a) the execution, delivery and performance by the Assignor of this Agreement has been duly authorized by all necessary corporate action on the part of the Assignor subject to the Approval and Vesting Order and authorization as is required by the Court;
- (b) the Assignor is not a non-resident of Canada within the meaning of the *Income Tax Act (Canada)*; and
- (c) the Assignor is a registrant for the purposes of the tax imposed under Part IX of the *Excise Tax Act* and for the purposes of *An Act respecting the Québec Sales Tax*.

### 6.2 Assignee's Representations and Warranties

The Assignee represents and warrants to and in favour of the Assignor that as of the Execution Date and as of Closing as to the following and acknowledges and confirms that the Assignor is relying upon such representations and warranties in connection with the entering into of this Agreement:

- (a) the Assignee has been duly incorporated and is validly subsisting under the Laws of the jurisdiction of its incorporation, and has all requisite corporate capacity, power and authority to carry on its business as now conducted by it and to own its properties and assets and is qualified to carry on business under the Laws of the jurisdictions where it carries on a material portion of its business;
- (b) the Assignee is not a non-resident of Canada within the meaning of the *Income Tax Act (Canada)*;

- 21 -

- (c) the Assignee is a registrant for the purposes of the tax imposed under Part IX of the *Excise Tax Act* and for the purposes of *An Act respecting the Québec Sales Tax*;
- (d) the execution, delivery and performance by the Assignee of this Agreement:
  - (i) has been duly authorized by all necessary corporate action on the part of the Assignee;
  - (ii) does not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) require any consent or approval under, result in a breach or a violation of, or conflict with, any of the terms or provisions of its constating documents or by-laws or any contracts or instruments to which it is a party or pursuant to which any of its assets or property may be affected; and
  - (iii) will not result in the violation of any Laws;
- (e) this Agreement has been duly executed and delivered by the Assignee and constitutes legal, valid and binding obligations of the Assignee, enforceable against it in accordance with their respective terms subject only to any limitation under applicable Laws relating to (i) bankruptcy, winding-up, insolvency, arrangement and other similar Laws of general application affecting the enforcement of creditors' rights, and (ii) the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction;
- (f) the Assignee has reviewed and is familiar with all of the terms and conditions of the Leases; and
- (g) the Assignee has, and will have at Closing, all funds on hand necessary to pay the Purchase Price.

The Assignee's representations and warranties shall survive Closing for a period of one (1) year thereafter.

### 6.3 Assignee's Covenants

- (a) The Assignee shall use commercially reasonable efforts to take all such actions as are within its power to control so as to ensure compliance with each of the conditions and covenants set forth in Article 8 which are for the benefit of any other Party.
- (b) The Assignee shall not participate, or permit its affiliates to participate, in any substantive meeting or discussion, either in person or by telephone with any Governmental Authority in connection with the consummation of the Transaction unless it consults with the Assignor in advance and, to the extent not prohibited by such Governmental Authority, gives the Assignor the opportunity to attend and participate.

- 22 -

- (c) The Assignee shall take any and all steps in order to avoid the filing of an application for, or the issuance of any interim Order or other Order which would have the effect of delaying or preventing the Closing, and if any such interim Order or other Order is issued, the Assignee shall take any and all steps to have it rescinded, revoked or set aside as soon as possible. For greater certainty, "any and all steps" shall include, committing to or effecting undertakings, a consent agreement, a hold separate arrangement, a consent Order, a hold separate Order, a sale, a divestiture, a disposition or other action, in any such case without any reduction of the Purchase Price.
- (d) The Assignee will promptly notify the Assignor and the Assignor will promptly notify the Assignee upon:
  - (i) becoming aware of any Order or any complaint requesting an Order restraining or enjoining the execution of this Agreement or the consummation of the Transactions; or
  - (ii) receiving any notice from any Governmental Authority of its intention:
  - (iii) to institute a suit or proceeding to restrain or enjoin the execution of this Agreement or the consummation of the transactions contemplated by this Agreement; or
  - (iv) to nullify or render ineffective this Agreement or such transactions if consummated.

#### 6.4 Assignor's Covenants

The Assignor agrees, subject to the Initial Order and the Sale Procedures, to take all commercially reasonable actions as are within its power to control so as to fulfill the conditions set forth in Article 8 which are for the benefit of the Assignor, the Assignee and the mutual benefit of the Parties.

#### 6.5 Tax Matters

In addition to the representations and warranties set forth in Section 6.2, the Assignee further warrants, represents and covenants to the Assignor, and acknowledges and confirms that the Assignor is relying on such representations and warranties, indemnities and covenants in connection with the entering into of this Agreement, that:

- (a) the Assignee is duly registered under Subdivision (d) of Division V of Part IX of the *Excise Tax Act* with respect to the goods and services tax and harmonized sales tax and under Division I of Chapter VIII of Title I of *An Act respecting the Québec Sales Tax* with respect to the Québec sales tax", and that its registration numbers are 140495821 (GST/HST) and 1017607878 (QST), which registrations shall be in full force and effect and shall not have been cancelled or revoked on the Closing Date;



- (b) subject to Section 9.23, the Assignee has entered into this Agreement and is purchasing the Subject Assets on the Closing Date, as principal for its own account and not as an agent, nominee, trustee or otherwise on behalf of another Person;
- (c) to the extent permitted under subsection 221(2) of the *Excise Tax Act* and any equivalent or corresponding provision under any applicable provincial or territorial legislation, the Assignee shall self-assess and remit directly to the appropriate Governmental Authority any Taxes including goods and services tax or harmonized sales tax, as the case may be, imposed under the *Excise Tax Act* and any similar value added or multi-staged tax or sales tax imposed by any applicable provincial or territorial legislation payable in connection with the purchase and sale transaction of the Subject Assets, including the assignment of any of the Leases and the transfer of the Assignor's real or immovable property interests in the corresponding Premises;
- (d) on Closing, the Assignee will pay, in addition to the Purchase Price, and the Assignor will collect, any Taxes including transfer taxes as well as goods and services tax or harmonized sales tax, as the case may be, imposed under the *Excise Tax Act* and any similar value added or multi-staged tax or sales tax exigible on the purchase and sale transaction of the Subject Assets, except to the extent that the Assignee is permitted under subsection 221(2) of the *Excise Tax Act* and any equivalent or corresponding provision under any applicable provincial or territorial legislation to self-assess and remit such Taxes directly to the appropriate Governmental Authority, and the Assignee shall have executed and delivered a certificate, undertaking and indemnity which includes its certification of its registration numbers issued under the *Excise Tax Act* and An Act respecting the *Québec Sales Tax*, and incorporates the provisions of this Section 6.5 (the "GST/HST and QST Certificate, Undertaking and Indemnity");
- (e) the Assignee shall make and file all required return(s) in accordance with the requirements of subsection 228(4) of the *Excise Tax Act* and any equivalent or corresponding provision under any applicable provincial or territorial legislation; and
- (f) the Assignee shall indemnify and save the Assignor harmless from and against any and all Taxes applicable to the purchase of the Subject Assets by the Assignee from the Assignor including transfer taxes and goods and services tax or harmonized sales tax, as the case may be, imposed under the *Excise Tax Act* and any similar value added or multi-staged tax or sales tax, penalties, costs and/or interest which may become payable by or assessed against the Assignor as a result of any inaccuracy, misstatement or misrepresentation made by the Assignee on the Closing Date in connection with any matter raised in this Section 6.5 or contained in the GST/HST and QST Certificate, Undertaking and Indemnity or any failure by the Assignee to comply with the provisions of this Section 6.5 or the GST/HST and QST Certificate, Undertaking and Indemnity.

The provisions of this Section 6.5 shall survive and not merge on Closing.

## 6.6 Survival of Covenants,

Except as otherwise expressly provided in this Agreement to the contrary, no representations, warranties, covenants or agreements of the Assignor or the Assignee in this Agreement shall survive the Closing.

## ARTICLE 7 OTHER LOCATIONS

### 7.1 Restrictive Covenants

- (a) The Assignee agrees that it will permit Lowe's Companies Canada, ULC or its affiliates to sell hardware, electrical supplies, plumbing supplies, paint and wallpaper and operate a big box home improvement store at the locations mentioned below:

- 1) Nanaimo North Town Centre, 4750 Rutherford Rd, Nanaimo, BC; and
- 2) Centrepont Mall, 6600 Yonge St, Toronto, ON.

The foregoing agreement shall survive and not merge on Closing.

- (b) The Assignee agrees to use commercially reasonable efforts for the period from the date hereof to the date that is thirty (30) days following the Closing Date to amend its rights under existing restrictive covenants or otherwise grant relief from such restrictive covenants to the Assignor, the relevant landlords, and third party assignees of leases from the Assignor pursuant to the Sale Procedures in respect of the premises at the locations listed below, such that the sale of hardware, electrical supplies, plumbing supplies, paint and wallpaper is no longer prohibited by the Assignee in order to permit such third party assignees to use the premises subject to such leases for the purposes of the operation of a big box home improvement store:

- 1) Shoppes at Shawnessy, 295 Shawville Blvd SE Calgary, AB; and
- 2) Burlington Mall, 777 Guelph Line, Burlington, ON.

- (c) Notwithstanding the foregoing, any existing restriction concerning the sale of automotive parts and supplies, the sale of sporting goods and the sale of work wear and industrial wear and the operation of an automotive service centre, gas bar or car wash remains unchanged.

- (d) In furtherance of the foregoing, the Assignee agrees to execute and deliver such reasonable assurances as may be required by the Assignor, the relevant landlord and/or the relevant third party assignees.

## **ARTICLE 8 CLOSING**

### **8.1 Conditions of Closing for the Benefit of the Assignee**

The Assignee's obligation to complete the purchase and sale of the Subject Assets is subject to the following conditions to be fulfilled or performed, on or before the Closing Date, which conditions are for the exclusive benefit of the Assignee and may be waived, in whole or in part, by the Assignee:

- (a) the representations and warranties of the Assignor in Section 6.1 shall be true and correct as of the Closing Date with the same force and effect as if such representations and warranties were made on and as of such date;
- (b) the Assignor shall have performed and complied with all of the other terms and conditions in this Agreement on its part to be performed or complied with at or before Closing in all material respects and shall have executed and delivered or caused to have been executed and delivered to the Assignee at Closing all the Closing Documents contemplated or required to be so executed and delivered in this Agreement; and
- (c) the Assignee shall have received the Closing Documents.

### **8.2 Conditions of Closing for the Benefit of the Assignor**

The Assignor's obligation to complete the purchase and sale of the Subject Assets is subject to the following conditions to be fulfilled or performed, on or before the Closing Date, which conditions are for the exclusive benefit of the Assignor and may be waived, in whole or in part, by the Assignor:

- (a) the representations and warranties of the Assignee in Section 6.2 shall be true and correct as of the Closing Date with the same force and effect as if such representations and warranties were made on and as of such date;
- (b) the Assignee shall have paid the Balance in its entirety to the Monitor and shall have performed and complied with all of the terms and conditions in this Agreement on its part to be performed or complied with at or before Closing in all material respects and shall have executed and delivered or caused to have been executed and delivered to the Assignor at Closing all the documents contemplated required to be so executed and delivered in this Agreement; and
- (c) the Assignor shall have received the Closing Documents.

### **8.3 Conditions of Closing for the Mutual Benefit of the Parties**

The obligations of either the Assignor or the Assignee to complete the purchase and sale of the Subject Assets are subject to the following conditions to be fulfilled or performed, on or before the Closing Date, which conditions are for the mutual benefit of each of the parties and may only be waived, in whole or in part, by agreement of the parties to this Agreement:

- 26 -

- (a) the Approval and Vesting Order, substantially in the form attached hereto as Schedule "E", shall have been issued and entered by the Court on or before the date that is the earlier of: (i) October 1, 2015; and (ii) the date that is one (1) Business Day prior to the date that is twenty-two (22) days prior to the Outside Date (as such date may be amended from time to time), or such other date as may be agreed upon in writing by the Parties, and the Approval and Vesting Order shall not be subject to a stay; and
- (b) the Monitor shall have delivered the Monitor's Certificate.

#### **8.4 Closing Documents**

On or before Closing, subject to the provisions of this Agreement, the Assignor and the Assignee shall, execute or cause to be executed and shall deliver or cause to be delivered into escrow (in a sufficient number of copies or counterparts for the Assignee and the Assignor and, where applicable, in registerable form), the following documents and other deliveries, which shall be in form and substance reasonably satisfactory to the Assignee and the Assignor and their respective solicitors:

- (a) **By the Assignor and the Assignee:**
  - (i) the Assignment and Assumption of Lease for each Lease;
  - (ii) the Assignment and Assumption of Realty Tax Appeals;
  - (iii) the Assignment and Assumption of Assumed Liabilities; and
  - (iv) such other documents as each Party or each Party's solicitors shall reasonably require in good faith in accordance with this Agreement or as may be required under applicable Laws, including, if applicable, an assignment from the Assignor in favour of the Assignee of the benefit of all non-disturbance agreements granted by existing mortgagees of the Properties in favour of the Assignor or any previous tenant of the Premises, to the extent assignable without consent.
- (b) **By the Assignor:**
  - (i) the Approval and Vesting Order;
  - (ii) a direction regarding payment of the Deposit and the Balance;
  - (iii) the statement of adjustments evidencing the adjustments made at Closing;
  - (iv) all master keys and duplicate keys relating to the Premises, if any, all security cards and access cards relating to the Premises, if any, and all combinations and passwords to vaults and combination locks and other security features located in the Premises, if any, in each case, to the extent in the possession of the Assignee;

- 27 -

- (v) originals of the Leases and all agreements and correspondence pursuant to which the Leases have been amended, modified, restated, supplemented or assigned, to the extent in the possession or control of the Assignor and available;
  - (vi) copies of the Plans, to the extent made available on the Data Site on the Execution Date;
  - (vii) copies of the area certifications in respect of the Premises, to the extent made available on the Data Site on the Execution Date;
  - (viii) the Monitor's Certificate in accordance with Section 8.7; and
  - (ix) such other documents as the Assignee or the Assignee's solicitors shall reasonably require in good faith in accordance with this Agreement or as may be required under applicable Laws.
- (c) **By the Assignee:**
- (i) the Balance plus all Taxes payable hereunder;
  - (ii) GST/HST and QST Certificate, Undertaking and Indemnity; and
  - (iii) such other documents as the Assignee or the Assignee's solicitors shall reasonably require in good faith in accordance with this Agreement or as may be required under applicable Laws.

### **8.5 Closing Date**

- (a) Subject to the Sale Procedures and Section 5.3(f), the completion of the transaction of purchase and sale contemplated by this Agreement (the "Closing") shall take place at 10:00 a.m. (Toronto time) at the Toronto office of Osler, Hoskin and Harcourt LLP, on the first Business Day following the date that is twenty-one (21) days following the issuance of the Approval and Vesting Order provided that no appeals or motions to set aside or vary the Approval and Vesting Order are outstanding or at such other place, on such other date and such other time as may be agreed upon in writing by the parties (the "Closing Date").
- (b) Subject to satisfaction or waiver by the relevant Party or Parties, as applicable, of the conditions of closing in its favour contained in this Article 8, at Closing, the Assignee will pay or satisfy the Purchase Price in accordance with Article 3, and the Closing of the purchase and sale transaction of the Subject Assets will take effect, pursuant to the Approval and Vesting Order, upon delivery of the Monitor's Certificate.

### **8.6 Confirmation of Satisfaction of Conditions**

On the Closing Date, subject to satisfaction or waiver by the relevant Party or Parties, as applicable, of the conditions of Closing in its favour contained in Article 8, the parties or their respective solicitors shall confirm to the Monitor the satisfaction of all conditions to Closing,

- 28 -

whereupon the Monitor shall deliver copies of the Monitor's Certificate to the Parties hereto and release the Deposit and the Balance to the Assignor and following Closing forthwith file the Monitor's Certificate with the Court.

### **8.7 Closing**

- (a) Subject always to Section 3.2, and Section 5.1, the Deposit and the Balance shall be held by the Monitor, in trust in a separate interest bearing account, pending completion of the Transaction or earlier termination of this Agreement. In holding and dealing with the funds paid to the Monitor in trust and any interest earned thereon pursuant to this Agreement, the Monitor is not bound in any way by any agreement other than Section 3.2, Section 5.1, and this Section 8.7 and the Monitor shall not assume or be deemed to assume any duty, liability or responsibility other than to hold the trust funds and any interest earned thereon in accordance with the provisions of this Section 8.7 and to pay the funds, and any interest earned thereon, to the Party becoming entitled thereto in accordance with the terms of this Agreement, except in the event of a dispute between the parties as to entitlement to the trust funds, of which the Monitor has been given notice in writing, the Monitor may, in its sole, subjective and unreviewable discretion, or shall, if requested by either of the parties, pay the trust funds and any and all interest earned thereon into court, whereupon the Monitor shall have no further obligations relating to the trust funds or any interest earned thereon or otherwise hereunder.
- (b) The Monitor shall not, under any circumstances, be required to verify or determine the validity of any written notice or other document whatsoever delivered to the Monitor in connection with the trust funds and the Monitor is hereby relieved of any liability or responsibility for any loss or damage which may arise as a result of the acceptance by the Monitor of any such written notice or other document in good faith, provided that the Monitor shall not be relieved of any liability or responsibility for any loss or damage which may arise if the Monitor releases the trust funds or any interest thereon to a Party after having received prior written notice from the other Party hereto claiming entitlement to such trust funds or a dispute to such entitlement.
- (c) The Monitor shall be entitled to rely upon any written instructions received from the Assignor in respect of the investment of the trust funds, provided any and all such investments shall be in guaranteed investment certificates or segregated accounts issued by or held at Schedule I Canadian chartered bank(s).
- (d) On or before Closing, the parties' respective solicitors shall exchange the Closing Documents in escrow and the Balance shall be delivered to or paid to the order of the Monitor, in trust, and the Deposit and the Balance shall remain in escrow with the Monitor until the Monitor has delivered the Monitor's Certificate to the Assignor and the Assignee, upon the occurrence of which the escrow shall be lifted, the Closing Documents shall take effect as of the date and time set out in the Monitor's Certificate, the entire amount of the Deposit and the Balance shall be forthwith released to the Assignor and the Closing shall be deemed to have

occurred as of such date and time and fully signed Closing Documents shall be released to each of the Assignor and Assignee.

- (e) The parties acknowledge that, notwithstanding that the Monitor is not a party to this Agreement, the Monitor may rely upon the provisions of Section 3.2 and Section 5.1 hereof and this Section 8.7.
- (f) This Section 8.7 shall survive the Closing or termination of this Agreement.

#### **8.8 Filings and Authorizations**

- (a) Each of the Assignor and the Assignee, as promptly as practicable after the execution of this Agreement, will make, or cause to be made, all such filings and submissions under all Laws applicable to it, as may be required for it to consummate the purchase and sale of the Subject Assets in accordance with the terms of this Agreement (other than the motion seeking approval of the Transaction and the issuance of the Approval and Vesting Order). The Assignor and the Assignee shall co-ordinate and cooperate with one another in exchanging such information and supplying such assistance as may be reasonably requested by each in connection with the foregoing including, providing each other with all notices and information supplied to or filed with any Governmental Authority (except for notices and information which the Assignor or the Assignee, in each case acting reasonably, considers highly confidential and sensitive which may be filed on a confidential basis), and all notices and correspondence received from any Governmental Authority.
- (b) The Assignee waives compliance with the *Bulk Sales Act* (Ontario) and any other similar bulk sales laws. This waiver shall survive the Closing or termination of this Agreement.
- (c) The Parties acknowledge and agree that the Monitor shall be entitled to file the Monitor's Certificate with the Court, without independent investigation, upon receiving written confirmation from the Assignor and the Assignee or their respective solicitors that all conditions of Closing have been satisfied or waived, and the Monitor shall have no liability to the Assignor or the Assignee or any other Person as a result of filing the Monitor's Certificate.

#### **8.9 Court Matters**

- (a) The Assignor shall consult and co-ordinate with the Assignee and their respective legal advisors regarding the parties upon whom the motion seeking the Approval and Vesting Order will be served.
- (b) The Assignee shall provide such information and take such actions as may be reasonably requested by the Assignor to assist the Assignor in obtaining the Approval and Vesting Order and any other order of the Court reasonably necessary to consummate the transactions contemplated by this Agreement, including, any Court ordered assignment of the Contracts and the Leases.

- 30 -

- (c) Notwithstanding anything else contained in this Agreement or elsewhere, the Assignee acknowledges and agrees that the Assignor cannot guarantee that it will obtain the Approval and Vesting Order and the Approval and Vesting Order may or may not be granted by the Court.

#### 8.10 Termination

This Agreement may, by notice in writing given at or prior to Closing, be terminated:

- (a) by mutual consent of the Assignor and the Assignee;
- (b) by the Assignee if any of the conditions in Section 8.1 have not been satisfied on or before the time ascribed thereto for the satisfaction of such condition and the Assignee has not waived such condition;
- (c) by the Assignor if any of the conditions in Section 8.2 have not been satisfied on or before the time ascribed thereto for the satisfaction of such condition and the Assignor has not waived such condition; or
- (d) by either Party if:
- (i) any of the conditions precedent in Section 8.3 have not been satisfied on or before the time ascribed thereto for the satisfaction of such condition and the parties have not waived such condition;
- or
- (ii) if the Closing has not occurred on or prior to the Outside Date (as defined in the Sale Procedures), or on or before such later date as the parties agree to in writing, provided that a Party may not terminate this Agreement pursuant to this Section if it has failed to perform any one or more of its obligations or covenants under this Agreement and the Closing has not occurred because of such failure.

### ARTICLE 9 OTHER PROVISIONS

#### 9.1 Confidentiality

The Assignee acknowledges that this Agreement is a Qualified Bid under the Sale Procedures and the Assignor shall be entitled to disclose this Agreement and all information provided by the Assignee in connection herewith to Competing Bidders, including, in connection with the Auctions. In addition, the Assignor shall be entitled to disclose this Agreement and all information provided by the Assignee in connection herewith, to the Court, the Monitor and parties in interest to the CCAA Proceedings. This Section and the Confidentiality Agreement shall survive and not merge on Closing.



## **9.2 Leasehold Interests**

Notwithstanding any provision of this Agreement to the contrary, for purposes of this Agreement and each Closing Document, (i) all references to "Lease" include any sublease or agreement to sublease by which the Assignor (as subtenant) holds its interest in, and/or right to occupy the related Premises, (ii) for the Premises which are subject to a sublease or agreement to sublease (rather than a lease) in favour of the Assignor, all references to the Assignor's "leasehold" interest in such Premises shall mean the Assignor's "subleasehold" interest, where applicable (rather than a leasehold interest) in such Premises, any reference to "Landlord" shall mean the sublandlord under the applicable sublease or agreement to sublease pursuant to which the Assignor (as subtenant) holds its interest in, and/or right to occupy such Premises, and any reference to "Sublease" shall mean a sub-sublease in such Premises in favour of the Assignor, and (iii) all other similar references relating to the Leases and Premises shall be interpreted and construed in a similar manner.

## **9.3 Time of the Essence**

Time shall be of the essence of this Agreement.

## **9.4 Entire Agreement**

This Agreement and the Confidentiality Agreement constitute the entire agreement between the parties with respect to the transactions contemplated in this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants, conditions or other agreements, legal or conventional, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement.

## **9.5 Waiver**

- (a) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the Party to be bound by the waiver.
- (b) No failure on the part of the Assignor or the Assignee to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

## **9.6 Further Assurances**

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be deemed necessary or advisable from time to time in order to effectively transfer the Subject Assets to the

Assignee and carry out the terms and conditions of this Agreement in accordance with their true intent.

#### **9.7 Severability**

If any provision of this Agreement shall be determined by a court of competent jurisdiction to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

#### **9.8 Governing Law**

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Each Party irrevocably and unconditionally submits to the jurisdiction of the courts of the Province of Ontario with respect to any action or proceeding arising out of or relating to the Transaction, and waives, to the fullest extent permitted by applicable Laws, any objection that it may now or hereafter have to the venue of any action or proceeding arising out of or relating to the Transaction in any court of the Province of Ontario. Each of the Parties hereby irrevocably waives, to the fullest extent permitted by applicable Laws, the defence of an inconvenient forum to the maintenance of such action or proceeding in any such court.

#### **9.9 English Language**

The parties hereto have requested that this Agreement be drafted in English only. *Les parties aux présentes ont demandé à ce que la présente convention soit rédigée en anglais seulement.*

#### **9.10 Statute References**

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

#### **9.11 Headings**

The division of this Agreement into Sections, the insertion of headings is for convenience of reference only and are not to be considered in, and shall not affect, the construction or interpretation of any provision of this Agreement.

#### **9.12 References**

Where in this Agreement reference is made to an article or section, the reference is to an article or section in this Agreement unless the context indicates the reference is to some other agreement. The terms "this Agreement", "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. The word "includes" or "including" shall mean "includes without limitation" or "including without limitation", respectively. The word "or" is not exclusive.

**9.13 Number and Gender**

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

**9.14 Business Days**

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day. All actions to be made or taken by a particular Business Day must be made or taken by no later than 4:30 p.m. (Toronto time) on that Business Day and any action made or taken thereafter shall be deemed to have been made and received on the next Business Day.

**9.15 Currency and Payment Obligations**

Except as otherwise expressly provided in this Agreement all dollar amounts referred to in this Agreement are stated in Canadian Dollars.

**9.16 Notice**

Any notice, consent or approval required or permitted to be given in connection with this Agreement or the Leases (a "Notice") shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by facsimile or e-mail:

## (a) To the Assignor:

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

Attn: Aaron Alt  
Email: 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 & hmckean@osler.com

With a copy to:

- 34 -

Alvarez & Marsal Canada Inc.  
 200 Bay St., Suite 2900  
 P.O. Box 22  
 Toronto, ON M5J 2J1

Attn: Doug R. McIntosh  
 Email: dmcintosh@alvarezandmarsal.com

With a copy to:

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

Attn: Jay A. Carfagnini & Ken Herlin  
 Email: jcarfagnini@goodmans.ca & kherlin@goodmans.ca

(b) in the case of a Notice to the Assignee, to:

Canadian Tire Real Estate Limited  
 15 South, 2180 Yonge Street  
 Toronto, ON M4P 2V8

Attn: Robert Mongeau and Mia Cooper  
 Email: Robert.Mongeau@cantire.com & Mia.Cooper@cantire.com

with a copy to:

Cassels Brock & Blackwell LLP  
 2100 Scotia Plaza  
 40 King Street West  
 Toronto, ON M5H 3C2

Attn: Anne-Marie Widner  
 Email: awidner@casselsbrock.com

A Notice is deemed to be given and received (i) if sent by personal delivery or same day courier, on the date of delivery if it is a Business Day and the delivery was made prior to 5:00 p.m. (local time in the place of receipt) and otherwise on the next Business Day, (ii) if sent by overnight courier, on the next Business Day, or (iii) if transmitted by facsimile, on the Business Day following the date of confirmation of transmission by the originating facsimile, or (iv) if sent by email, when the sender receives an email from the recipient acknowledging receipt, provided that an automatic "read receipt" does not constitute acknowledgment of an email for purposes of this section. Any Party may change its address for service from time to time by providing a Notice in accordance with the foregoing. Any subsequent Notice must be sent to the Party at its changed address. Any element of a Party's address that is not specifically changed in a Notice will be assumed not to be changed. Subject to Section 9.18, sending a copy of a Notice to a Party's legal counsel as contemplated above is for information purposes only and does not constitute delivery

of the Notice to that Party. The failure to send a copy of a Notice to legal counsel does not invalidate delivery of that Notice to a Party.

#### **9.17 Subdivision Control Legislation**

This Agreement and the Transaction are subject to compliance with the applicable subdivision control legislation to the extent applicable.

#### **9.18 Solicitors as Agent and Tender**

Any Notice, approval, waiver, agreement, instrument, document or communication permitted, required or contemplated in this Agreement (including, without limitation, any agreement to amend this Agreement) may be given or delivered and accepted or received by the Assignee's solicitors on behalf of the Assignee and by the Assignor's solicitors on behalf of the Assignor and any tender of Closing Documents may be made upon the Assignor's solicitors and the Assignee's solicitors, as the case may be.

#### **9.19 No Registration of Agreement**

The Assignee covenants and agrees not to register or cause or permit to be registered this Agreement or any notice of this Agreement on title to any of the Property and that no reference to or notice of it or any caution, certificate of pending litigation or other similar court process in respect thereof shall be registered on title to the Property and/or any part thereof and the Assignee shall be deemed to be in material default under this Agreement if it makes, or causes or permits, any registration to be made on title to the Subject Assets and/or any part thereof prior to the successful completion of the Transaction contemplated herein on the Closing Date. The Assignee shall indemnify and save the Assignor harmless from and against any and all Claims whatsoever arising from or with respect to any such registration, including, all the legal fees, on a full indemnity basis, including those incurred by the Assignor with respect to obtaining the removal of such registration. This indemnity shall survive and not merge on the expiration, non-completion and/or termination of this Agreement for any reason.

#### **9.20 Third Party Costs**

Each of the Parties hereto shall be responsible for the costs of their own solicitors, respectively, in respect of the Transaction. The Assignee shall be solely responsible for and shall pay, in addition to the Purchase Price, any land transfer taxes payable on the transfer of the Subject Assets, all registration taxes, fees and other costs payable in respect of registration of any documents to be registered by the Assignee at Closing and all federal and provincial sales and other taxes payable upon or in connection with the conveyance or transfer of the Subject Assets, including goods and services tax or harmonized sales tax or any similar value added or multi-staged tax imposed by any applicable provincial or territorial legislation, as the case may be, and any other provincial sales taxes. This Section 9.20 shall survive the Closing or the termination of this Agreement.

#### **9.21 Interpretation**

The parties hereto acknowledge and agree that: (a) each Party and its counsel reviewed and negotiated the terms and provisions of this Agreement and have contributed to their revision, (b)

- 36 -

the rule of construction to the effect that any ambiguities are resolved against the drafting Party shall not be employed in the interpretation of this Agreement, and (c) the terms and provisions of this Agreement shall be construed fairly as to all parties hereto and not in favour of or against any Party, regardless of which Party was generally responsible for the preparation of this Agreement.

#### **9.22 No Third Party Beneficiaries**

Each Party hereto intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person, other than the Parties hereto and the Monitor, and no Person, other than the Parties hereto and the Monitor, shall be entitled to rely on the provisions hereof in any Claim, proceeding, hearing or other forum.

#### **9.23 Enurement**

This Agreement shall become effective when executed by the Assignor and the Assignee and after that time shall be binding upon and enure to the benefit of the parties and their respective heirs, executors, personal legal representatives, successors and permitted assigns. Subject to the foregoing, the Assignee has and shall have no right to assign, convey and/or transfer its rights and/or obligations hereunder or to direct title to any of the Subject Assets to any other Person or to effect a "change of control" so as to indirectly effect the foregoing, without in each case first obtaining the prior written consent of the Assignor, which consent may be arbitrarily and unreasonably withheld by the Assignor, provided that the Assignor shall act reasonably on a request for consent to assign this Agreement to an Affiliate of the Assignee or to CT Real Estate Investment Trust or an Affiliate of CT Real Estate Investment Trust, provided that in no case shall the Assignee be released. The Assignee acknowledges that the Assignor shall be deemed to be acting reasonably in not granting its approval to a request for consent to assignment if such request to assignment will or may cause a delay in the successful completion of the Transaction, including obtaining a Landlord Consent, or delay or effect receipt of a release from the Landlords in respect of the obligations of the Assignor and/or Target in respect of any or all of the Leases.

#### **9.24 Counterparts and Delivery**

All parties agree that this Agreement may be executed in counterpart and transmitted by telecopier or e-mail (PDF) and that the reproduction of signatures in counterpart by way of telecopier or e-mail (PDF) will be treated as though such reproduction were executed originals.

*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF the parties have executed this Agreement.

**TARGET CANADA CO.**

By: Alan P. Act

Name: A. Act

Title: CEO

By: Pamela J. Tomczak

Name: Pamela Tomczak

Title: Director

**CANADIAN TIRE REAL ESTATE LIMITED**

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

IN WITNESS WHEREOF the parties have executed this Agreement.

**TARGET CANADA CO.**

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

**CANADIAN TIRE REAL ESTATE  
LIMITED**



By: \_\_\_\_\_

Name: ROBERT MONGEAU

Title: PRESIDENT

By: \_\_\_\_\_

Name:

Title:



**SCHEDULE "A"**  
**PREMISES**

<b>Location Name</b>	<b>Address</b>	<b>Landlord</b>
Aurora Shopping Centre	15400 Bayview Ave, Aurora, ON	Morguard Realty Holdings Inc.
Sudbury Supermall	1485 Lasalle Boulevard, Sudbury, ON	Riocan Holdings (Sudbury) Inc.
Northwest Centre	1380 Mountain Rd., Moncton, NB	Northwest Plaza Ltd.
Bayers Lake Power Centre	194 Chain Lake Drive, Halifax, NS	Canadian Property Holdings (Nova Scotia) Inc.
Le Carrefour Rimouski	419 boul. Jessop, Rimouski, QC	9130-1168 Quebec Inc.
Place Alexis Nihon	1500 av. Atwater, Westmount, QC	Cominar Real Estate Investment Trust
Place Versailles Shopping Centre	7275 rue Sherbrooke East, Montreal, QC	Place Versailles Inc.
Driftwood Mall	2701-2751 Cliffe Avenue, Courtenay, BC	Driftwood Mall Ltd. and 5275 Investment Ltd.
Tamarack Mall	1500 Cranbrook Street North, Cranbrook, BC	Pellex Holdings Ltd.
Village Green Mall	4900 27 <sup>th</sup> Street, Vernon, BC	OPTrust Retail Inc.
Hillside Mall	1610 Hillside Avenue, Victoria, BC	Hillside Centre Holdings Inc.
Grant Park	1080 Grant Avenue, Winnipeg, MB	Grant Park Adventures Inc.

**SCHEDULE "B"**  
**LEASE PARTICULARS**

**1. Aurora Shopping Centre – 15400 Bayview Avenue, Aurora, ON**

- Agreement to Lease dated June 21, 1995 between PenEquity Management Corporation and Zellers Inc.
- Lease dated June 21, 1995 between Morguard Realty Holdings Inc. (as nominee for and on behalf of Morguard Real Estate Investment Trust) and Zellers Inc.
- Letter Agreement dated March 22, 2005 between Morguard Real Estate Investment Trust and Zellers Inc.
- Assignment and Assumption of lease dated May 27, 2011 between Zellers Inc. and Target Canada Co.
- First Amendment to lease dated May 27, 2011 between Morguard Real Estate Investment Trust and Target Canada Co.
- Notice of Sublease expiration dated December 27, 2011 from Target Canada Co. to Zellers Inc.

**2. Sudbury Supermall – 1485 Lasalle Boulevard, Sudbury, ON**

- Lease dated August 31, 1981 between Rudbury Holdings Limited and K Mart Canada Limited.
- Letter Agreement dated May 29, 1987.
- Letter Agreement dated February 10, 1993.
- Letter Agreement dated February 21, 1994.
- Letter Agreement dated August 9, 1994.
- Letter Agreement dated January 24, 1995.
- Letter Agreement dated October 6, 1995.
- Letter Agreement dated November 14, 1995.
- Letter Agreement dated February 17, 1998.
- Letter Agreement dated August 12, 2002.
- Letter Agreement dated December 1, 2005.

- 2 -

- Letter Agreement dated December 21, 2010.
    - Lease Amendment dated March 1, 1982 between Rudbury Holdings Limited and K Mart Canada Limited.
    - Consent Agreement dated September 20, 1994 between Rudbury Holdings Limited and Kmart Canada Limited/Kmart Canada Limitée.
    - Letter Agreement dated February 17, 1998 between Zellers Inc. and CTREF Investments Limited, 1173404 Ontario Limited and Frumcor Investments Limited, in Trust for Riocan Real Estate Investment Trust.
    - Letter Agreement dated August 12, 2002 between Zellers Inc. and Riocan Real Estate Investment Trust.
    - Letter Agreement dated December 1, 2005 between Riocan Holdings (Sudbury) Inc. and Zellers Inc.
    - Assignment and Assumption of Lease Agreement dated May 22, 2011 between Zellers Inc. and Target Canada Co.
    - Consent to Assignment and Sublease and Amendment to Lease dated May 27, 2011 between RioCan Holdings (Sudbury) Inc. and Target Canada Co.
    - Amendment to Lease dated June 21, 2012 between Riocan Holdings (Sudbury) Inc. as Landlord, Target Canada Co. as Tenant, and Target Corporation as Indemnifier.
    - Amendment to Lease dated June 4, 2013 between Riocan Holdings (Sudbury) Inc. as Landlord, Target Canada Co. as Tenant, and Target Corporation as Indemnifier.
    - Amendment to Lease dated September 1, 2013 between Riocan Holdings (Sudbury) Inc. as Landlord, Target Canada Co. as Tenant, and Target Corporation as Indemnifier.
3. **Northwest Centre – 1380 Mountain Rd., Moncton, NB**
- Lease dated April 21, 1972 between Place Rouanda Inc., as Landlord, and Zeller's Limited, as Tenant.
  - Lease amendment dated April 30, 1973 between Place Rouanda Inc. and Zellers Limited.
  - Store Expansion and Lease Amendment dated April 8, 1997.
    - Letter Agreement dated April 8, 1997 between Canadian Diversified Real Estate Partnership by its general partner 1064423 Ontario Limited and Zellers Inc.
    - Letter Agreement dated June 2, 1997 between Canadian Diversified Real Estate Partnership by its general partner 1064423 Ontario Limited and Zellers Inc.

- 3 -

- Lease Agreement dated June 12, 1997 between Canadian Diversified Real Estate Partnership by its general partner 1064423 Ontario Limited and Zellers Inc.
- Non-Disturbance Agreement executed March 21, 2000 between Zellers Inc., as Tenant, Grep Properties Limited, as Landlord, and Montreal Trust Company of Canada, as Lender.
- Assignment and Assumption of Lease Agreement between Zellers Inc. and Target Canada Co. dated September 23, 2011
- Assumption Agreement dated September 23, 2011 between Target Canada Co. and Northwest Plaza Ltd.
- Non-Disturbance Agreement executed 2007 between Zellers Inc., as Tenant, Northwest Plaza Ltd. as Trustee for Northwest Commercial Trust, as Landlord, and Computershare Trust Company of Canada, as Lender.

4. **Bayers Lake Power Centre – 194 Chain Lake Drive, Halifax, NS**

- Lease dated April 25, 2003 between Homburg L.P. Management Corporation as general partner of Homco Realty Fund (41) Limited Partnership and Zellers Inc.
- Guarantee and Indemnity between Homburg L.P. Management Corporation as general partner of Homco Realty Fund (41) Limited Partnership and Hudson's Bay Company dated April 25, 2003.
- Notice of Assignment of Lease dated September 23, 2011 from Zellers Inc. to Target Canada Co.
- Assignment and Assumption of Lease Agreement dated September 23, 2011 from Zellers Inc. to Target Canada Co.
- First Amendment to Lease dated September 23, 2011 between Canadian Property Holdings (Nova Scotia) Inc. and Target Canada Co.

**Applicable to Boston Pizza Lands and existing Sublease with Boston Pizza**

- Lease dated February 6, 2001 between 3859681 Canada Inc. and Bayers Lake Pizza Company (*Boston Pizza Lease*).
- Ground Lease Agreement dated April 30, 2001 between GE Capital Canada Equipment Financing Inc., 3859681 Canada Inc., as landlord, and Bayers Lake Pizza Company Inc., as tenant.
- Conditional Assignment of Lease dated March 1, 2001 among 3859681 Canada Inc., Bayers Lake Pizza Company Inc. and Boston Pizza International Inc.

- 4 -

- Lease Amending Agreement dated March 8, 2002 between 3859681 Canada Inc. and Bayers Lake Pizza Company Inc.
- Agreement dated April 25, 2003 among 3859681 Canada Inc., Bayers Lake Pizza Company Inc., Homburg L.P. Management Incorporated, Zellers Inc., Hudson's Bay Company and GE Canada Equipment Financing G.P.

5. Le Carrefour Rimouski – 419 boul. Jessop, Rimouski, QC

- Lease agreement dated as of October 10, 1978 between Centre Commercial de Rimouski Inc. and Campeau Corporation, as landlords, and Hudson's Bay Company (Québec) Limited, as tenant.
- Notice of correction dated as of March 30, 1979 between Centre Commercial de Rimouski Inc. and Campeau Corporation, as landlords, and Hudson's Bay Company (Québec) Limited, as tenant.
- Assignment agreement dated as of May 4, 1979 between La Compagnie de la Baie d'Hudson (Québec) Limitée, as assignor, and La Compagnie de la Baie d'Hudson, as assignee.
- Assignment agreement dated as of May 6, 1985 between Hudson's Bay Company, as assignor, and Zellers Inc., as assignee.
- Agreement dated as of February 24, 1988 between 2539-9338 Québec Inc., as landlord, and Zellers Inc., as tenant.
- Agreement dated as of February 26, 1988 between 157173 Canada Inc., Société Immobilière Trans-Québec Inc., Les Coopérants, Société Mutuelle D'Assurance-Vie, as landlords, and Zellers Inc., as tenant.
- Letter dated as of December 17, 1998 from Zellers Inc., as tenant, to SITQ Commercial Inc., as landlord.
- Termination agreement of the income participation agreement dated as of January 7, 1999 between SITQ Commercial Inc. and Immeubles Carège Inc., represented by SITQ Inc., as landlords, and Zellers Inc., as tenant.
- Agreement dated as of June 3, 1999 between SITQ Commercial Inc., as landlord, and Zellers Inc., as tenant.
- First amendment to lease dated as of April 3, 2000 between SITQ Commercial Inc., as landlord, and Zellers Inc., as tenant.
- Assignment and assumption agreement dated as of May 27, 2011 between Zellers Inc., as assignor, and Target Canada Co., as assignee.

- 5 -

- Second amendment to lease dated as of May 27, 2011 between 9130-1168 Québec Inc., as landlord, by its manager Ivanhoe Cambridge Inc., and Target Canada Co., as tenant.
- Letter dated as of September 6, 2013 from Provigo Distributions Inc., as tenant, to Target Canada Co., as tenant.
- Letter of Agreement dated June 10, 2004.
- Letter of Agreement dated September 24, 2004.
- Letter of Agreement dated October 27, 2004.
- Assignment and Assumption of Lease dated May 27, 2011.
- Second Amendment to Lease dated May 27, 2011.
- Letter Agreement dated April 28, 2011.
- Acknowledgement of Non-Applicability of First Right of Refusal Target Lease - Rimouski, Quebec dated August 28, 2014.

6. Place Alexis Nihon – 1500 av. Atwater, Westmount, QC

Lease dated October 31, 2002 between Place Alexis Nihon Management Services Inc. (as property manager, acting as mandatory for PAN Management Montréal (1997) Inc., as amended, modified, restated, supplemented or assigned, including the following:

Letter dated December 8, 1997 from Zellers, Inc. to Place Alexis Nihon, Inc. confirming Landlord approval of the operation of a pharmacy in the Premises;

Assignment and Assumption of Lease dated May 27, 2011 between Target Canada Co. and Zellers Inc.

Amendment to Lease dated May 27, 2011 between Target Canada Co. and Zellers, Inc.

Letter Agreement dated October 1, 2012 between Target Canada Co. and Homco Realty Fund (189) Limited Partnership;

Amendment to Lease dated November 30, 2012 between Target Canada Co. and Homburg Trust (189); and

Amendment to Lease dated October 1, 2014 between Target Canada Co. and Cominar REIT.

7. Place Versailles Shopping Centre – 7275 rue Sherbrooke East, Montreal, QC

- Lease agreement dated as of October 5, 1992 between Place Versailles Inc., as landlord, and Zellers Inc., as tenant.

- 6 -

- Assignment and assumption of lease agreement dated as of September 23, 2011 between Zellers Inc., as assignor, and Target Canada Co., as assignee.
- First amendment to lease dated as of September 23, 2011 between Place Versailles Inc., as landlord, and Target Canada Co., as tenant.
- Notice of exercise of extension option dated as of August 16, 2012 from Target Canada Co., as tenant, to Place Versailles Inc., as landlord.

8. Driftwood Mall – 2801 Cliffe Avenue, Courtenay, BC

- Lease and Addendum to Lease dated April 15, 1976.
- An agreement dated October 14, 1976 with Great West Life whereby Great West Life agreed to grant Tenant priority over its Mortgage to the Landlord.
- Caveat dated February 15, 1977.
- Letter from Landlord to Tenant, dated September 3, 1980, providing for an expansion of 22,966 sf.
- Letter Agreement (regarding Tenant expansion) dated September 17, 1980.
- Letters dated April 1, 1981 and May 12, 1981 from Tenant setting out its consent to the addition of K-Mart to the Centre and outlining the Tenant's conditions for granting its approval (signed by Landlord).
- Letter from Tenant dated July 21, 1986 confirming Tenant's approval to permit construction of a new food store of approx. 50,000 sf and the subdivision of the existing food store into CRU's).
- Lease Amending Agreement dated March \_\_, 1992.
- Lease Extension Notice Letter dated August 24, 1995 and Landlord Acknowledgement dated September 18, 1995.
- Estoppel to Canada Life dated April 28, 1997 (signed by Tenant).
- Lease Extension Notice dated September 15, 2000.
- Lease Amending Agreement dated February 15, 2002.
- Letter dated November 7, 2002 from Landlord to Kenicom Ltd. regarding signage setting out that Kenicom will permit Zellers to maintain its signage on the new Pylon Sign ... (signed by both parties).
- Letter dated April 17, 2003 regarding expansion of theatre by approx. 6,000 sf and providing that such expansion is conditional upon obtaining governmental approval.
- Letter dated November 13, 2003 from Landlord to Tenant requesting Tenant's consent to the construction of the London Drugs location.
- Landlord Notice Letter dated August 6, 2004.
- Lease Amending Agreement dated September 20, 2005.
- Landlord Notice & Direction Letter dated January 8, 2008.

- 7 -

- Lease Extension Notice dated October 14, 2008.
- Assignment and Assumption of Lease, dated May 27, 2011.
- Amendment to Lease dated May 27, 2011.
- Amendment to Lease dated March 27, 2012.
- Rental Direction to Tenants, dated May 2, 2012.
- Transfer of Beneficial Interest, dated July 26, 2012.
- Landlord Approval of Roof Replacement dated July 27, 2012.
- Undated Addendum to Lease for purposes of registration due to sale of ¼ interest in lands by Landlord.

9. **Tamarack Mall – 1500 Cranbrook Street North, Cranbrook, BC**

- Lease dated June 14, 1977 among Tamarack Mall Ltd., on behalf of Tamarack Properties Ltd., and Hudson's Bay Company Developments Limited, as landlord, and The Governor and Company of Adventurers of England Trading into Hudson's Bay (the "Bay"), as tenant.
- Lease Amending Agreement dated June 15, 1977.
- The Bay Lease Acknowledgement dated October 15, 1982.
- Assignment of Lease dated May 6, 1985 whereby the Bay assigned its rights as Tenant to Zellers Inc.
- Agreement dated January 23, 1987 whereby Simpsons Limited acknowledged its obligations under the Lease as Landlord.
- Letter Agreement dated March 14, 2001.
- Amendment dated April 24, 2001.
- Letter Agreement dated April 24, 2009.
- Lease Amending Agreement dated April 5, 2010 that reflects the terms of the Letter Agreement dated April 24, 2009.
- Correspondence dated April 22, 2010 regarding the purchase of the Tamarack Shopping Centre by ARTIS Real Estate Investment Trust and appointment of Bentall Retail Services, LP as manager; Notice dated August 12, 2010 from ARTIS Real Estate Investment Trust.
- Assignment and Assumption of Lease Agreement dated May 27, 2011 whereby Zellers Inc. assigned its rights as Tenant to Target Canada Co.
- Amendment to Lease dated May 27, 2011.

10. **Village Green Mall – 4900 27<sup>th</sup> Street, Vernon, BC**

- Lease dated August 6, 1975.



- 8 -

- Tenant Letter regarding Opening & Lease Commencement dated August 8, 1975.
- Modification of Lease Agreement dated May 18, 1986.
- Amendment of Lease Agreement dated November 4, 1992.
- Amendment of Lease Agreement dated November 29, 2000.
- Landlord Notice of Appointment of Property Manager dated July 1, 2005.
- Estoppel Certificate dated December 13, 1993.
- Estoppel Certificate dated July 12, 1999.
- Letter Agreement dated May 17, 2006 providing The Bay and Zellers notice of the proposed amendments to the current Save-On Foods premises.
- Assignment and Assumption Agreement, dated May 27, 2011.
- Lease Amending Agreement, dated May 27, 2011.

11. Hillside Mall – 1610 Hillside Avenue, Victoria, BC

- Lease dated April 20, 1970 between Bentall Properties Ltd., as landlord, and Zeller's (Western) Limited, as tenant, and Zeller's Limited, as guarantor.
- Agreement dated as of September 22, 1986 between Bentall Properties Ltd., as landlord, and Zeller's Inc., as tenant.
- Lease Extension and Modification Agreement dated May 1, 1992 (with effect as of July 29, 1990) between Bentall Properties Ltd. (as to an undivided 70% interest) and G.W.L. Properties Ltd. (as to an undivided 30% interest), both in the care of Bentall Properties Ltd., as landlord, and Zellers Inc., as tenant.
- Letter Agreement dated May 1, 1992 between Bentall Properties Ltd. and G.W.L. Properties Ltd., as landlord, and Zeller's Inc., as tenant.
- Lease Extension and Modification Agreement dated May 5, 1991 between Bentall Properties Ltd. (as to an undivided 70% interest) and the Great-West Life Assurance Company (as to an undivided 30% interest), all in the care of Bentall Properties Ltd., as landlord, and Zeller's Inc., as tenant.
- Lease Renewal and Extension Agreement dated February 12, 2003 between BTC Properties I Ltd. (as to an undivided 70/100<sup>th</sup> interest) and The Great-West Life Assurance Company (as to an undivided 30/100<sup>th</sup> interest), as landlord, and Zeller's Inc. as tenant; registered on April 24, 2003.
- Lease Amending Agreement dated February 1, 2009 between OPB Realty Inc., as landlord, and Zellers Inc., as tenant.

- 9 -

- Letter Agreement extending the Term of the Lease dated January 7, 2010 between OPB Realty Inc., as landlord, and Zeller's Inc., as tenant.
- Lease Assignment dated effective September 23, 2011 by and between Zellers Inc. as assignor and Target Canada Co. as assignee.
- Amendment to Lease dated as of September 23, 2011 by and between Target Canada Co. as tenant and Hillside Centre Holdings Inc. as landlord.
- Amendment to Lease dated effective November 12, 2012 by and between Target Canada Co. as tenant and Hillside Centre Holdings Inc. as landlord.

**12. Grant Park – 1080 Grant Avenue, Winnipeg, MB**

- Lease dated June 29, 2000, between Zellers Inc. and Grant Park Ventures Inc.
- Offer to Lease dated June 29, 2000 from Grant Park Ventures Inc. to Zellers Inc.
- Assignment and Assumption of Lease Agreement made as of May 27, 2011 by Zellers Inc. as assignor and Target Canada Co. as assignee.
- Amendment to Lease as of May 27, 2011 by Target Canada Co. as tenant and Grant Park Ventures Inc. as landlord.
- Amendment to Lease as of July 31, 2012 by Target Canada Co. as tenant and Grant Park Ventures Inc. as landlord.
- Assumption Agreement (not dated) among Montez Core Income Fund III Limited Partnership, by its general partner, Montez Core Income Fund III GP Inc. as purchaser and Target Canada Co. as tenant. (not executed).

**SCHEDULE "C"**  
**EXCLUDED ASSETS**

1. All chattels and personal or movable property which are owned by the Assignor;
2. All signs, furniture and furnishings;
3. All telecommunications equipment and related appurtenances;
4. All intellectual property or proprietary rights, whether registered or not, and any intangible property, owned, used or held by the Assignor;
5. All items, materials and signs bearing the logo, trade-mark, trade-name or business name or other mark or design of the Assignor;
6. All Inventory;
7. All Trade Fixtures;
8. All computers and related systems and information storage media;
9. All point-of-sales systems and all appurtenances thereto;
10. Any property belonging to the subtenants, franchisees or licensees of the Assignor or other occupants of the Premises;
11. Any freehold or other ownership interest in real or immovable property, and any property belonging to any Landlord;
12. All insurance policies of the Assignor;
13. Any and all assets not located at a Premises or any asset not used directly and exclusively at the Premises;
14. All rights and interests in trade-marks, trade-names, logos, commercial symbols and business names containing "Target" or any other proprietary wording or intellectual property rights of the Assignor or any of its affiliates (including, the websites); and
15. All rights of the Assignor against the Assignee pursuant to this Agreement.

**SCHEDULE "D"**  
**INTENTIONALLY DELETED**

**SCHEDULE "E"**

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE	)	●, THE ● <sup>III</sup>
REGIONAL SENIOR JUSTICE	)	DAY OF ●, 2015
MORAWETZ	)	
	)	

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 (collectively the "Applicants")

**APPROVAL AND VESTING ORDER – LEASE TRANSFER AGREEMENT**

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the "CCAA") for an order, *inter alia*, approving: the lease transfer (the "Transaction") contemplated by a Lease Transfer Agreement (the "Lease Transfer Agreement") among Target Canada Co. ("TCC"), as Assignor, and ● as Assignee (the "Assignee") dated ●, 2015 and certain related relief, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Applicants, the Affidavit of ● sworn on ●, 2015 including the exhibits thereto (the "● Affidavit"), and the ● Report (the "Monitor's ● Report") of Alvarez & Marsal Canada Inc., in its capacity as Monitor (the "Monitor"), filed, and on hearing the submissions of respective counsel for the Applicants and the Partnerships listed on Schedule "A" hereto, the Monitor, Target Corporation, the Assignee, and such other counsel as were present, no one else appearing although duly served as appears from the Affidavit of Service of ● sworn ●, 2015, filed:

**SERVICE AND DEFINITIONS**

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

2. THIS COURT ORDERS that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Amended and Restated Initial Order in these proceedings dated January 15, 2015 (the "Initial Order"), or in the Lease Transfer Agreement, as applicable.

**APPROVAL OF THE LEASE TRANSFER AGREEMENT**

3. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved and ratified and that the execution of the Lease Transfer Agreement by TCC is hereby approved and ratified with such minor amendments as TCC (with the consent of the Monitor) and the Assignee may agree to in writing. TCC is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction, including the sale, assignment and transfer by TCC of its right, title and interest in and to the Subject Assets to the Assignee and the Monitor shall be authorized to take such additional steps in furtherance of its responsibilities under the Lease Transfer Agreement. The legal descriptions and applicable land registry offices with respect to the Subject Assets are as set out on Schedule "C" hereto.

4. THIS COURT ORDERS AND DECLARES that upon the delivery of a Monitor's certificate to the Assignee substantially in the form attached as Schedule "B" hereto (the "Monitor's Certificate"), all of TCC's right, title and interest in and to the Subject Assets and the right, title and interest, if any, of any predecessor in interest of TCC in and to the Subject Assets, to the extent same was assigned or otherwise transferred to TCC, shall be sold, assigned and transferred to the Assignee free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, leases, licenses, levies, restrictions, rights of retention, judgments, notices of sale, contractual rights, options, liabilities (direct, indirect, absolute or contingent), obligations, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or

otherwise in respect of the Subject Assets (collectively, the "Claims"), including, without limiting the generality of the foregoing:

- (a) the Administration Charge, the KERP Charge, the Directors' Charge, the Financial Advisor Subordinated Charge, the DIP Lender's Charge, the Agent's Charge and Security Interest (collectively, the "CCAA Charges");
- (b) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), the *Civil Code of Québec*, the *Alberta Personal Property Security Act*, the *British Columbia Personal Property Security Act*, the *Nova Scotia Personal Property Security Act* or any other personal property registry system; and
- (c) those Claims listed on Schedule "C" hereto;

(all of which are collectively referred to as the "Encumbrances", which term shall not include the Permitted Encumbrances listed on Schedule "D" hereto) and, for greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the Subject Assets are hereby expunged and discharged as against the Subject Assets and the real or immovable property described in Schedule "C" other than any registrations made at the applicable land registry of the Leases forming part of the Subject Assets and any memorials of lease, summaries of lease, notices of lease, assignments of lease and any amendments or other registrations pertaining to the Leases forming part of the Subject Assets.

5. THIS COURT ORDERS that upon the registration in the applicable land registry office of a certified copy of this Order in the manner prescribed by the applicable land registry office, the applicable Land Registrar is hereby directed to specifically discharge, cancel, delete and expunge from title to the applicable real or immovable property described in Schedule "C" all of the Encumbrances listed in Schedule "C" hereto.

6. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds received on the Closing of the Transaction shall stand in the place and stead of the Subject Assets and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds therefrom with the same

priority as they had with respect to the Subject Assets immediately prior to the Closing of the Transaction, as if the Transaction had not been completed.

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

8. THIS COURT ORDERS that subject to the terms of the Lease Transfer Agreement nothing herein affects:

- (a) the accommodation provided by TCC to the pharmacists as confirmed by the Endorsement of R.S.J. Morawetz dated February 18, 2015 for the period that shall end on or before March 30, 2015;
- (b) the rights and obligations of TCC and the Agent under the Agency Agreement dated January 29, 2015, as amended (the "Agency Agreement"); and
- (c) the terms of the Approval Order – Agency Agreement granted, February 4, 2015 (the "Agency Agreement Approval Order") including the Sales Guidelines attached as Schedule "B" thereto.

#### GENERAL PROVISIONS

9. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of TCC and any bankruptcy order issued pursuant to any such applications; or
- (c) any assignment in bankruptcy made in respect of TCC;

the sale, assignment and transfer of the Subject Assets to the Assignee pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of TCC and shall not be void or voidable by creditors of TCC, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other



applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

10. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario) and any equivalent legislation in any other jurisdiction in which all or any part of the Subject Assets are located and that this Order shall be registered notwithstanding the requirements of section 191(1) of the *Land Titles Act*, R.S.A. 2000, c L-4 and equivalent provisions in equivalent legislation in any other jurisdiction in which all or any part of the premises relating to the Subject Assets are located.

11. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative bodies, having jurisdiction in Canada or in the United States of America, to give effect to this Order and to assist TCC, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to TCC and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist TCC and the Monitor and their respective agents in carrying out the terms of this Order.

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**SCHEDULE "A"  
PARTNERSHIPS**

Target Canada Pharmacy Franchising LP

Target Canada Mobile LP

Target Canada Property LP

**SCHEDULE "B"**

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE )  
REGIONAL SENIOR JUSTICE )  
MORAWETZ )  
)

●, THE ●<sup>TH</sup>  
DAY OF ●, 2015

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 (collectively the "Applicants")

**MONITOR'S CERTIFICATE**

**RECITALS**

- A. All undefined terms in this Monitor's Certificate have the meanings ascribed to them in the Order of the Court dated ●, 2015 (the "Approval Order") approving the Lease Transfer Agreement entered into among Target Canada Co. ("TCC") and ● (the "Assignee") dated ●, 2015 (the "Lease Transfer Agreement"), a copy of which is attached as Exhibit ● to the Affidavit of ● dated ●, 2015.
- B. Pursuant to the Approval Order, the Court approved the Lease Transfer Agreement and provided for the sale, assignment and transfer to Assignee of TCC's right, title and interest in and to the Subject Assets, which sale, assignment and transfer is to be effective with respect to the Subject Assets upon the delivery by the Monitor to the Assignee and TCC of a certificate confirming (i) the conditions to Closing as set out in sections 8.1, 8.2 and 8.3 of the Lease Transfer Agreement have been satisfied or waived by the Assignee and TCC, as applicable; and (ii) the Transaction has been completed to the satisfaction of the Monitor.

THE MONITOR CERTIFIES the following:

- 1. The conditions to Closing as set out in section 8.1, 8.2 and 8.3 of the Lease Transfer Agreement have been satisfied or waived by the Assignee and TCC, as applicable; and
- 2. The Transaction has been completed to the satisfaction of the Monitor.

This Monitor's Certificate was delivered by the Monitor at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

ALVAREZ & MARSAL CANADA INC., in its capacity as Court-appointed Monitor of Target Canada Co., *et al.* and not in its personal or corporate capacity

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

## SCHEDULE "C"

No.	Location/Address	Province	Land Registry Office	Legal Description	Encumbrances to be Expunged/Deleted

**SCHEDULE "D" - PERMITTED ENCUMBRANCES**

**"Permitted Encumbrances"** means, collectively: (a) any Encumbrances (as defined in the Lease Transfer Agreement) encumbering the freehold or other ownership interest in the Property (as defined in the Lease Transfer Agreement) or any other Landlord's interest in the Property, but excludes any Encumbrances solely encumbering the Assignor's leasehold interest in and to any Property on which the Premises (as defined in the Lease Transfer Agreement) are located; (b) Encumbrances resulting from the Assignee's actions or omissions; and (c) the items identified in Schedule "K" of the Lease Transfer Agreement.

**SCHEDULE "F"**  
**ASSIGNEE'S GST/HST AND QST CERTIFICATE, UNDERTAKING AND INDEMNITY**

TO: Target Canada Co. (the "Assignor")

AND TO: Osler, Hoskin & Harcourt LLP, the Assignor's solicitors

RE: Lease Transfer Agreement dated ●, 2015, made between the Assignor, as assignor, and ●, as assignee, (the "Assignee"), as amended from time to time (the "Lease Transfer Agreement"), for the assignment of the Leases and related Subject Assets (as such terms are defined in the Lease Transfer Agreement)

---

In consideration of the completion of the transaction set out in the Agreement, the Assignee hereby certifies and agrees as follows:

- a) the Subject Assets are being assigned to the Assignee as principal for its own account and not as an agent, nominee, trustee or otherwise on behalf of or for another Person;
- b) the Assignee is registered under Subdivision (d) of Division V of Part IX of the *Excise Tax Act* (Canada) (the "*Excise Tax Act*") for the collection and remittance of goods and services tax and harmonized sales tax ("GST/HST") and under Division 1 of Chapter VIII of Title I of *An Act respecting the Québec Sales Tax* (the "Québec Act") with respect to the Québec sales tax ("QST") and its registration numbers are ● and such registrations are in good standing and have not been varied, cancelled or revoked;
- c) the Assignee shall be liable for, shall self-assess and shall remit to the appropriate governmental authority, all GST/HST which is payable under the *Excise Tax Act* and all QST which is payable under the Québec Act, in connection with the transfer of the Subject Assets, all in accordance with the *Excise Tax Act* and the *Québec Act* respectively;
- d) the Assignee shall indemnify and save harmless the Assignor from and against any and all GST/HST, QST penalties, interest and/or other costs which may become payable by or be assessed against the Assignor as a result of any failure by the Assignor to collect and remit any GST/HST or QST applicable on the sale and conveyance of the Subject Assets by the Assignor to the Assignee or as a result of any inaccuracy, misstatement or misrepresentation by the Assignee in this GST/HST and QST Certificate, Undertaking and Indemnity or any failure by the Assignee to comply with the provisions of this GST/HST and QST Certificate, Undertaking and Indemnity; and
- e) this GST/HST and QST Certificate, Undertaking and Indemnity shall survive and not merge upon closing of the above-noted transaction.

This GST/HST and QST Certificate, Undertaking and Indemnity may be executed in counterpart and transmitted by telecopier or e-mail (PDF) and the reproduction of signatures in counterpart by way of telecopier or e-mail (PDF) will be treated as though such reproduction were executed originals.

DATED \_\_\_\_\_, 2015.

**[ASSIGNEE]**

By: \_\_\_\_\_

Name: ●

Title: ●

By: \_\_\_\_\_

Name: ●

Title: ●



**SCHEDULE "G"**  
**FORM OF ASSIGNMENT AND ASSUMPTION OF ASSUMED LIABILITIES**

THIS AGREEMENT is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2015 (the "Effective Date")

**BETWEEN:**

**TARGET CANADA CO.**

(the "Assignor")

- and -

●

(the "Assignee")

**RECITALS:**

- A. The Assignor and certain of its affiliates applied for and together with the limited partnerships listed in Schedule "A" to the Initial Order (collectively, the "Applicants") were granted protection by the Ontario Superior Court of Justice (Commercial List) (the "Court") under the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the "CCAA"), and Alvarez & Marsal Canada Inc. (the "Monitor") was appointed the monitor of the Assignor, pursuant to an Order of the Court dated January 15, 2015, as amended and restated on February 11, 2015, and as further amended, restated and/or amended and restated from time to time (collectively, the "Initial Order").
- B. The Assignor and the Assignee entered into a lease transfer agreement dated ●, 2015 (the "Lease Transfer Agreement"), whereby, among other things, the Assignor agreed to assign to the Assignee all of the Assignor's right, title and interest in and to the Leases.
- C. The Lease Transfer Agreement was approved by the Court pursuant to the Order dated ● (the "Approval and Vesting Order").
- D. The Assignor and the Assignee are entering into this Agreement to provide for the Assignee's assumption of the Assumed Liabilities in accordance with the Lease Transfer Agreement and the Approval and Vesting Order.
- E. Unless otherwise expressly provided for herein, all capitalized terms when used in this Agreement have the same meaning given to such terms in the Lease Transfer Agreement.

**THEREFORE**, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

- 2 -

## **ARTICLE 1 ASSIGNMENT**

### **1.1 Assumption by Assignee**

The Assignee hereby covenants with the Assignor to assume, discharge, perform and fulfill all the obligations and liabilities arising from and after the Effective Date with respect to the Assumed Liabilities.

For greater certainty, nothing in this Agreement shall be construed as an attempt to assign to the Assignee any contract or other agreement which, as a matter of law or by its terms, is not assignable in whole or in part without the consent of the other party or parties to such contract or other agreement, unless such consent has been given or the assignment has been approved by the Court in the Approval and Vesting Order.

### **1.2 Indemnity**

The Assignee hereby covenants with the Assignor, as of and from the Effective Date, to indemnify and save the Assignor harmless, from any and all Claims arising from, relating to or in connection with any non-payment, non-observance or non-performance of any of the Assumed Liabilities to be paid, observed or performed from time to time, in respect of the period on or after the Effective Date, or otherwise arising, incurred or accrued on or after the Effective Date but solely in respect of the period from and after the Effective Date.

### **1.3 Paramountcy**

The rights and obligations of the parties respectively with respect to the Leases and any other Subject Assets shall be governed by the Lease Transfer Agreement. In the event of any conflict, inconsistency or ambiguity between the provisions of this Agreement and of the Lease Transfer Agreement, then the provisions of the Lease Transfer Agreement shall govern and be paramount, and any such provision in this Agreement shall be deemed to be amended, to the extent necessary to eliminate any such conflict, inconsistency, ambiguity or difference.

## **ARTICLE 2 GENERAL**

### **2.1 Time of the Essence**

Time shall be of the essence of this Agreement.

### **2.2 Enurement**

This Agreement shall become effective when executed by the Assignor and the Assignee and after that time shall be binding upon and enure to the benefit of the parties and their respective heirs, executors, personal legal representatives, successors and permitted assigns. Neither this Agreement nor any of the rights or obligations under this Agreement shall be assignable or transferable by either party without the consent of the other party.

### **2.3 Entire Agreement**

This Agreement and the Lease Transfer Agreement constitute the entire agreement between the parties with respect to the assignment and assumption of the Assumed Liabilities and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants, conditions or other agreements, legal or conventional, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement.

### **2.4 Waiver**

- (a) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.
- (b) No failure on the part of the Assignor or the Assignee to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

### **2.5 Further Assurances**

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be deemed necessary or advisable from time to time in order to effectively transfer the Subject Assets to the Assignee and carry out the terms and conditions of this Agreement in accordance with their true intent.

### **2.6 Severability**

If any provision of this Agreement shall be determined to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

### **2.7 Governing Law**

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of ● and the federal laws of Canada applicable therein.

### **2.8 CCAA Proceedings**

Each party to this Agreement submits to the exclusive jurisdiction of the Court in any action, application, reference or other proceeding arising out of or related to this Agreement or the Lease Transfer Agreement and agrees that all claims in respect of any such actions, application, reference or other proceeding shall be heard and determined in the CCAA proceedings before the Court.

## **2.9 English Language**

The parties hereto have requested that this Agreement be drafted in English only. *Les parties aux présentes ont demandé à ce que la présente convention soit rédigée en anglais seulement.*

## **2.10 Statute References**

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

## **2.11 Headings**

The division of this Agreement into Sections, the insertion of headings is for convenience of reference only and are not to be considered in, and shall not affect, the construction or interpretation of any provision of this Agreement.

## **2.12 References**

Where in this Agreement reference is made to an article or section, the reference is to an article or section in this Agreement unless the context indicates the reference is to some other agreement. The terms "this Agreement", "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. The word "includes" or "including" shall mean "includes without limitation" or "including without limitation", respectively. The word "or" is not exclusive.

## **2.13 Number and Gender**

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

## **2.14 Business Days**

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day. All actions to be made or taken by a particular Business Day must be made or taken by no later than 4:30 p.m. (Toronto time) on a Business Day and any action made or taken thereafter shall be deemed to have been made and received on the next Business Day.

## **2.15 Notice**

Any notice, consent or approval required or permitted to be given in connection with this Agreement or the Leases (a "Notice") shall be in writing and shall be sufficiently given if delivered or transmitted in accordance with the Lease Transfer Agreement.

- 5 -

**2.16 Counterparts and Delivery**

All parties agree that this Agreement may be executed in counterpart and transmitted by telecopier or e-mail (PDF) and that the reproduction of signatures in counterpart by way of telecopier or e-mail (PDF) will be treated as though such reproduction were executed originals.

*[Signature pages follow.]*

**IN WITNESS WHEREOF** the Assignor has executed this Agreement.

**TARGET CANADA CO.**

By: \_\_\_\_\_

Name: ●

Title: ●

By: \_\_\_\_\_

Name: ●

Title: ●

**IN WITNESS WHEREOF** the Assignee has executed this Agreement.

●

By: \_\_\_\_\_

Name: ●

Title: ●

By: \_\_\_\_\_

Name: ●

Title: ●

**SCHEDULE "H"**  
**FORM OF ASSIGNMENT AND ASSUMPTION OF LEASE**

THIS AGREEMENT is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2015 (the "Effective Date")

**BETWEEN:**

**TARGET CANADA CO.**

(the "Assignor")

- and -

●

(the "Assignee")

**RECITALS:**

- A. Pursuant to a lease dated ●, as same is assigned, amended, restated, renewed or supplemented from time to time, including but not limited to those documents listed in Schedule "A" attached hereto (collectively, the "Lease"), ● (the "Landlord") leased to the Assignor certain premises at ● in the City of ●, in the Province of ● as more particularly described in the Lease (the "Premises").
- B. [NTD: insert particulars of guaranty/indemnity by Target Corporation if applicable, and where no release is given by Landlord (the "Guarantee")].
- C. The Assignor and certain of its affiliates applied for and together with the limited partnerships listed in Schedule "A" to the Initial Order (collectively, the "Applicants") were granted protection by the Ontario Superior Court of Justice (Commercial List) (the "Court") under the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the "CCAA"), and Alvarez & Marsal Canada Inc. (the "Monitor") was appointed the monitor of the Assignor, pursuant to an Order of the Court dated January 15, 2015, as amended and restated on February 11, 2015, and as further amended, restated and/or amended and restated from time to time (collectively, the "Initial Order").
- D. The Assignor and the Assignee entered into a lease transfer agreement dated ●, 2015 (the "Lease Transfer Agreement"), whereby, among other things, the Assignor agreed to assign to the Assignee all of the Assignor's right, title and interest in and to the Lease.
- E. The Lease Transfer Agreement was approved by the Court pursuant to the Order dated ● (the "Approval and Vesting Order").
- F. The Assignor and the Assignee are entering into this Agreement to provide for the assignment and assumption of the Lease by the Assignor to the Assignee in accordance with the Lease Transfer Agreement and the Approval and Vesting Order.



- 2 -

- G. Unless otherwise expressly provided for herein, all capitalized terms when used in this Agreement have the same meaning given to such terms in the Lease Transfer Agreement, or if no meaning is given in the Lease Transfer Agreement, in the Lease.

**THEREFORE**, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

## **ARTICLE 1 ASSIGNMENT**

### **1.1 Assignment by Assignor**

The Assignor assigns and transfers to the Assignee, as of the Effective Date, all of the Assignor's obligations, rights, title and interest, both at law and at equity, in and to the Lease and the Premises and all related rights, benefits and advantages, including the residue of the term of the Lease, any rights of renewal and/or extension, any rights of first refusal, rights of first offer and similar pre-emptive rights, and rights to purchase, if any, contained in the Lease, [and the benefit of all subleases of the Premises – NTD: include for Halifax lease] (collectively, the "Assigned Interest"). [NTD: insert if Premises are located outside the Province of Quebec]

[The Assignor assigns and transfers to the Assignee, as of the Effective Date, all of the Assignor's rights, title and interest in and to the Lease and all related rights, benefits and advantages, including any rights of renewal and/or extension, any rights of first refusal, rights of first offer and similar pre-emptive rights, and rights to purchase, if any, contained in the Lease (collectively, the "Assigned Interest").] [NTD: insert if Premises are located in the Province of Quebec]

### **1.2 Assumption by Assignee**

The Assignee hereby accepts the assignment of the Assigned Interest provided for in this Agreement and assumes all of the Assignor's obligations with respect to the Assigned Interest from and after the Effective Date.

### **1.3 Adjustments**

All adjustments under the Lease shall be dealt with in accordance with the Lease Transfer Agreement.

### **1.4 Indemnity**

The Assignee hereby covenants with the Assignor, as of and from the Effective Date, including any renewals or extensions of the term of the Lease, to indemnify and save the Assignor harmless, from any and all Claims arising from, relating to or in connection with any non-payment of rents or other amounts payable on the part of the tenant to be paid from time to time under the Lease, or any non-observance or non-performance of any of the terms, agreements, covenants, obligations and conditions on the part of the tenant under the Lease to be paid, observed or performed from time to time, in respect of the period from and after the Effective Date, or otherwise arising, incurred or accrued on or after the Effective Date but solely in respect of the period from and after the Effective Date.

### **1.5 Paramountcy**

The rights and obligations of the parties respectively with respect to the Lease and any other Subject Assets related to the Lease shall be governed by the Lease Transfer Agreement. In the event of any conflict, inconsistency, ambiguity or difference between the provisions of this Agreement and of the Lease Transfer Agreement, then the provisions of the Lease Transfer Agreement shall govern and be paramount, and any such provision in this Agreement shall be deemed to be amended, to the extent necessary to eliminate any such conflict, inconsistency, ambiguity or difference.

## **ARTICLE 2 GENERAL**

### **2.1 Time of the Essence**

Time shall be of the essence of this Agreement.

### **2.2 Enurement**

This Agreement shall become effective when executed by the Assignor and the Assignee and after that time shall be binding upon and enure to the benefit of the parties and their respective heirs, executors, personal legal representatives, successors and permitted assigns. Neither this Agreement nor any of the rights or obligations under this Agreement shall be assignable or transferable by either party without the consent of the other party.

### **2.3 Entire Agreement**

This Agreement and the Lease Transfer Agreement constitute the entire agreement between the parties with respect to the assignment and assumption of the Lease contemplated in the Lease Transfer Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants, conditions or other agreements, legal or conventional, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement and the Lease Transfer Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement and the Lease Transfer Agreement.

### **2.4 Waiver**

- (a) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.
- (b) No failure on the part of the Assignor or the Assignee to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

## **2.5 Further Assurances**

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be deemed necessary or advisable from time to time in order to effectively transfer the Subject Assets related to the Lease to the Assignee and carry out the terms and conditions of this Agreement in accordance with their true intent.

## **2.6 Severability**

If any provision of this Agreement shall be determined to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

## **2.7 Governing Law**

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of ● and the federal laws of Canada applicable therein.

## **2.8 CCAA Proceedings**

Each party to this Agreement submits to the exclusive jurisdiction of the Court in any action, application, reference or other proceeding arising out of or related to this Agreement or the Lease Transfer Agreement [or the Guarantee] and agrees that all claims in respect of any such actions, application, reference or other proceeding shall be heard and determined in the CCAA Proceedings before the Court.

## **2.9 English Language**

The parties hereto have requested that this Agreement be drafted in English only. *Les parties aux présentes ont demandé à ce que la présente convention soit rédigée en anglais seulement.*

## **2.10 Statute References**

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

## **2.11 Headings**

The division of this Agreement into Sections, the insertion of headings is for convenience of reference only and are not to be considered in, and shall not affect, the construction or interpretation of any provision of this Agreement.

## **2.12 References**

Where in this Agreement reference is made to an article or section, the reference is to an article or section in this Agreement unless the context indicates the reference is to some other agreement. The terms "this Agreement", "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any

- 5 -

agreement supplemental hereto. The word "includes" or "including" shall mean "includes without limitation" or "including without limitation", respectively. The word "or" is not exclusive.

### **2.13 Number and Gender**

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

### **2.14 Business Days**

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day. All actions to be made or taken by a particular Business Day must be made or taken by no later than 4:30 p.m. (Toronto time) on a Business Day and any action made or taken thereafter shall be deemed to have been made and received on the next Business Day.

### **2.15 Notice**

Any notice, consent or approval required or permitted to be given in connection with this Agreement or the Lease (a "Notice") shall be in writing and shall be sufficiently given if delivered or transmitted in accordance with the Lease Transfer Agreement.

### **2.16 Counterparts and Delivery**

All parties agree that this Agreement may be executed in counterpart and transmitted by telecopier or e-mail (PDF) and that the reproduction of signatures in counterpart by way of telecopier or e-mail (PDF) will be treated as though such reproduction were executed originals.

**[Signature pages follow.]**

**IN WITNESS WHEREOF** the Assignor has executed this Agreement.

**TARGET CANADA CO.**

By: \_\_\_\_\_

Name: ●

Title: ●

By: \_\_\_\_\_

Name: ●

Title: ●

**IN WITNESS WHEREOF** the Assignee has executed this Agreement.

•

**By:** \_\_\_\_\_

**Name:** ●

**Title:** ●

**By:** \_\_\_\_\_

**Name:** ●

**Title:** ●

**SCHEDULE "A" -- LEASE PARTICULARS**

**SCHEDULE "I"**  
**FORM OF ASSIGNMENT AND ASSUMPTION OF REALTY TAX APPEALS**

THIS AGREEMENT is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2015 (the "Effective Date")

**BETWEEN:**

TARGET CANADA CO.

(the "Assignor")

- and -

●

(the "Assignee")

**RECITALS:**

- A. Pursuant to a lease dated ●, as same is assigned, amended, restated, renewed or supplemented from time to time, including but not limited to those documents listed in Schedule "A" attached hereto (collectively, the "Lease"), ● (the "Landlord") leased to the Assignor certain premises at ● in the City of ●, in the Province of ● as more particularly described in the Lease (the "Premises"). [NTD: insert applicable Leases]
- B. The Assignor and certain of its affiliates applied for and together with the limited partnerships listed in Schedule "A" to the Initial Order (collectively, the "Applicants") were granted protection by the Ontario Superior Court of Justice (Commercial List) (the "Court") under the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the "CCAA"), and Alvarez & Marsal Canada Inc. (the "Monitor") was appointed the monitor of the Assignor, pursuant to an Order of the Court dated January 15, 2015, as amended and restated on February 11, 2015, and as further amended, restated and/or amended and restated from time to time (collectively, the "Initial Order").
- C. The Assignor and the Assignee entered into a lease transfer agreement dated ●, 2015 (the "Lease Transfer Agreement"), whereby, among other things, the Assignor agreed to assign to the Assignee all of the Assignor's right, title and interest in and to the Lease.
- D. The Lease Transfer Agreement was approved by the Court pursuant to the Order dated ● (the "Approval and Vesting Order").
- E. The Assignor and the Assignee are entering into this Agreement to provide for the assignment of the Realty Tax Appeals and Realty Tax Refunds in respect of the Leases by the Assignor to the Assignee in accordance with the Lease Transfer Agreement and the Approval and Vesting Order.



- 2 -

- F. Unless otherwise expressly provided for herein, all capitalized terms when used in this Agreement have the same meaning given to such terms in the Lease Transfer Agreement, or if no meaning is given in the Lease Transfer Agreement, in the Lease.

**THEREFORE**, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

## **ARTICLE 1 ASSIGNMENT**

### **1.1 Assignment and Assumption**

Subject to the terms and conditions contained herein, effective as of the Effective Date, the Assignor hereby assigns, transfers and sets over unto the Assignee all of the Assignor's right, title and interest, if any, in, to the Realty Tax Appeals and any Realty Tax Refunds which may arise from any of the Realty Tax Appeals for any period either before or from and after the Closing Date.

### **1.2 Carriage of Realty Tax Appeals**

From and after the Closing Date, the Assignee may, at its sole cost and expense but without any obligation to do so, assume or retain the carriage of the Realty Tax Appeals and continue as the appellant in the Realty Tax Appeals. The Assignor agrees to co-operate with the Assignee with respect to the Realty Tax Appeals and to provide the Assignee with access to any reasonably necessary documents or materials required to continue any Realty Tax Appeals. If the Realty Tax Appeals may only be prosecuted in the name of the Assignor, the Assignor shall co-operate with the Assignee to enable the Assignee to pursue and prosecute the Realty Tax Appeals, at the Assignee's sole cost and expense.

### **1.3 Authorization and Direction**

This assignment shall serve as authorization and direction to the municipal and/or provincial taxing authority to pay to the Assignee the Realty Tax Refunds.

### **1.4 Paramountcy**

The rights and obligations of the parties respectively with respect to the Realty Tax Appeals and the Realty Tax Refunds shall be governed by the Lease Transfer Agreement. In the event of any conflict, inconsistency, ambiguity or difference between the provisions of this Agreement and of the Lease Transfer Agreement, then the provisions of the Lease Transfer Agreement shall govern and be paramount, and any such provision in this Agreement shall be deemed to be amended, to the extent necessary to eliminate any such conflict, inconsistency, ambiguity or difference.

## **ARTICLE 2 GENERAL**

### **2.1 Time of the Essence**

Time shall be of the essence of this Agreement.

## 2.2 Enurement

This Agreement shall become effective when executed by the Assignor and the Assignee and after that time shall be binding upon and enure to the benefit of the parties and their respective heirs, executors, personal legal representatives, successors and permitted assigns. Neither this Agreement nor any of the rights or obligations under this Agreement shall be assignable or transferable by either party without the consent of the other party.

## 2.3 Entire Agreement

This Agreement and the Lease Transfer Agreement constitute the entire agreement between the parties with respect to the assignment and assumption of the Realty Tax Appeals contemplated in the Lease Transfer Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants, conditions or other agreements, legal or conventional, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement and the Lease Transfer Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement and the Lease Transfer Agreement.

## 2.4 Waiver

- (a) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.
- (b) No failure on the part of the Assignor or the Assignee to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

## 2.5 Further Assurances

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be deemed necessary or advisable from time to time in order to effectively transfer the Subject Assets to the Assignee and carry out the terms and conditions of this Agreement in accordance with their true intent.

## 2.6 Severability

If any provision of this Agreement shall be determined to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

## 2.7 Governing Law

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of ● and the federal laws of Canada applicable therein.

## 2.8 CCAA Proceedings

Each party to this Agreement submits to the exclusive jurisdiction of the Court in any action, application, reference or other proceeding arising out of or related to this Agreement or the Lease Transfer Agreement and agrees that all claims in respect of any such actions, application, reference or other proceeding shall be heard and determined in the CCAA Proceedings before the Court.

## 2.9 English Language

The parties hereto have requested that this Agreement be drafted in English only. *Les parties aux présentes ont demandé à ce que la présente convention soit rédigée en anglais seulement.*

## 2.10 Statute References

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

## 2.11 Headings

The division of this Agreement into Sections, the insertion of headings is for convenience of reference only and are not to be considered in, and shall not affect, the construction or interpretation of any provision of this Agreement.

## 2.12 References

Where in this Agreement reference is made to an article or section, the reference is to an article or section in this Agreement unless the context indicates the reference is to some other agreement. The terms "this Agreement", "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. The word "includes" or "including" shall mean "includes without limitation" or "including without limitation", respectively. The word "or" is not exclusive.

## 2.13 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

## 2.14 Business Days

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day. All actions to be made or taken by a particular Business Day

- 5 -

must be made or taken by no later than 4:30 p.m. (Toronto time) on a Business Day and any action made or taken thereafter shall be deemed to have been made and received on the next Business Day.

#### **2.15 Currency and Payment Obligations**

Except as otherwise expressly provided in this Agreement all dollar amounts referred to in this Agreement are stated in Canadian Dollars.

#### **2.16 Notice**

Any notice, consent or approval required or permitted to be given in connection with this Agreement or the Lease (a "Notice") shall be in writing and shall be sufficiently given if delivered or transmitted in accordance with the Lease Transfer Agreement.

#### **2.17 Counterparts and Delivery**

All parties agree that this Agreement may be executed in counterpart and transmitted by telecopier or e-mail (PDF) and that the reproduction of signatures in counterpart by way of telecopier or e-mail (PDF) will be treated as though such reproduction were executed originals.

*[Signature pages follow.]*

**IN WITNESS WHEREOF** the Assignor has executed this Agreement.

**TARGET CANADA CO.**

By: \_\_\_\_\_  
Name: ●  
Title: ●

By: \_\_\_\_\_  
Name: ●  
Title: ●

**IN WITNESS WHEREOF** the Assignee has executed this Agreement.

●

By: \_\_\_\_\_  
Name: ●  
Title: ●

By: \_\_\_\_\_  
Name: ●  
Title: ●

**SCHEDULE "A" – LEASE PARTICULARS**

**SCHEDULE "J"**  
**INTENTIONALLY DELETED**



**SCHEDULE "K"**  
**PERMITTED ENCUMBRANCES**

**GENERAL ENCUMBRANCES**

- (a) The reservations, limitations, exceptions, provisos and conditions, if any, expressed in any original grants from the Crown including, without limitation, the reservation of any royalties, mines and minerals in the Crown or in any other person.
- (b) Subdivision agreements, site plan control agreements, development agreements, heritage easements and agreements relating thereto, servicing agreements, utility agreements, permits, licenses, airport zoning regulations and other similar agreements with Governmental Authorities or private or public utilities affecting the development or use of any Property.
- (c) Rail siding agreements or facility, cost sharing, servicing, reciprocal use or other similar agreements.
- (d) Any easements, servitudes or rights-of-way in favour of any Governmental Authority, any private or public utility, any railway company or any adjoining owner.
- (e) Any unregistered easements, servitudes, rights-of-way or other unregistered interests or claims not disclosed by registered title in respect of the provision of utilities to the Property.
- (f) Any rights of expropriation, access or use or any other similar rights conferred or reserved by applicable Law.
- (g) Encumbrances for real or immovable property taxes (which term includes charges, rates and assessments) or charges for electricity, power, gas, water and other services and utilities in connection with the Property that have accrued but are not yet due and owing or, if due and owing, are adjusted for on Closing.
- (h) Restrictive covenants, private deed restrictions and other similar land use control agreements.
- (i) Minor encroachments by the Property over neighbouring lands and/or permitted under agreements with neighbouring landowners and minor encroachments over the Property by improvements of neighbouring landowners and/or permitted under agreements with neighbouring landowners.
- (j) The provisions of all applicable Laws, including by-laws, regulations, ordinances and similar instruments relating to development and zoning of the Property.
- (k) The exceptions and qualifications contained in Section 44(1) of the *Land Titles Act* (Ontario) (other than paragraphs 4, 6 and 11) or the *Land Titles Act* (Alberta).

- 2 -

- (l) Security given to a public utility or any municipality or governmental or other public authority when required by the operations of the Property in the ordinary course of business, including, without limitation, the right of the municipality to acquire portions of the Property for road widening or interchange construction and the right of the municipality to complete improvements, landscaping or remedy deficiencies in any pedestrian walkways or traffic control or monitoring to be provided to the Property.
- (m) Any minor title defects, irregularities, easements, servitudes, encroachments, rights-of-way or other discrepancies in title or possession relating to the Property which would be disclosed by an up-to-date plan of survey, certificate of location, real property report or technical description.
- (n) Permits, licenses, agreements, servitudes, easements, (including, without limitation, heritage easements and agreements relating thereto), restrictions, restrictive covenants, options, rights-of-way, public ways, rights in the nature of an easement and other similar rights in land granted to or reserved by other persons (including, without in any way limiting the generality of the foregoing, permits, licenses, agreements, easements, servitudes, rights-of-way, sidewalks, public ways, and rights in the nature of easements or servitudes for sewers, drains, steam, gas and water mains or electric light and power or telephone and telegraph conduits, poles, wires and cables) (other than those described in paragraph (d) and (e) of this Schedule) which do not materially impair the current use, operation or marketability of the Property.
- (o) Undetermined or inchoate liens incidental to construction, renovations or current operations, a claim for which shall not at the time have been registered against the Property or of which notice in writing shall not at the time have been given to the Assignor pursuant to the *Construction Lien Act* (Ontario) or similar applicable legislation, and in respect of any of the foregoing cases, the Assignor has, where applicable, complied with the holdback or other similar provisions or requirements of the relevant construction contracts.
- (p) Any and all statutory liens, charges, adverse claims, prior claims, security interests, deemed trusts or other encumbrances of any nature whatsoever which are not registered on the title to the Property and of which the Assignor does not have notice, claimed or held by Her Majesty the Queen in Right of Canada, Her Majesty the Queen in Right of the Province of Ontario, Her Majesty the Queen in Right of the Province of Alberta, or by any other governmental department, agency or authority under or pursuant to any applicable legislation, statute or regulation.
- (q) Any reference plans or plans registered pursuant to the *Boundaries Act* (Ontario).
- (r) All Off-Title Compliance Matters.
- (s) Any unregistered interests in the Property of which the Assignee has actual notice prior to the Execution Date.

- 3 -

- (t) All instruments which are registered against title to a Property: (i) as of the date that is one (1) Business Days prior to the Execution Date; or (ii) otherwise agreed to by the Assignee; or (iii) permitted by this Agreement.
- (u) The Encumbrances and other rights in favour of the Landlords contained in the Leases.
- (v) The Encumbrances which the Leases and/or any Property are stated to be subject to or bound by pursuant to the terms of the Leases.
- (w) Any ground lease, emphyteutic lease, head lease or other lease which is superior to the Lease (each a "Head Lease"), any Encumbrances or other rights in favour of the applicable landlord contained in any Head Lease, and any Encumbrances which the Head Leases and/or leasehold interests created thereby are stated to be subject to or bound by pursuant to the terms of the applicable Head Lease.
- (x) Encumbrances encumbering the intervening leasehold interest pursuant to a Head Lease.

#### **SPECIFIC ENCUMBRANCES**

The characterization or descriptions of those items on the balance of this Schedule "K" is prepared for purposes of convenience only and for accurate reference, recourse should be had to the registration itself.

- (i) All instruments which are registered against title to a Property: (i) as of the date that is one (1) Business Days prior to the Execution Date; or (ii) otherwise agreed to by the Assignee; or (iii) permitted by this Agreement, except for those instruments which are to be expunged and discharged pursuant to the Approval and Vesting Order.

**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

**AFFIDAVIT OF MARK J. WONG  
(sworn May 8, 2015)**

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

**OSLER, HOSKIN & HARCOURT LLP**  
Box 50, 1 First Canadian Place  
Toronto, Canada M5X 1B8

Tracy Sandler (LSUC #: 32443N)  
Jeremy Dacks (LSUC #: 41851R)  
Shawn Irving (LSUC #: 50035U)  
Robert Carson (LSUC #: 57364H)

Tel: (416) 362-2111  
Fax: (416) 862-6666

Lawyers for the Applicants

Matter No: 1159785

# **TAB 3**

Revised: January 21, 2014

Court File No. [REDACTED]



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ——— )  
REGIONAL SENIOR JUSTICE ——— )  
MORAWETZ )  
WEEKDAY TUESDAY, THE # 19<sup>TH</sup>  
DAY OF MONTH MAY, 20YR 2015

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

BETWEEN:-

~~PLAINTIFF~~

Plaintiff

-and-

~~DEFENDANT~~

Defendant

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 (collectively the "Applicants")

**APPROVAL AND VESTING ORDER – LEASE TRANSFER AGREEMENT**

Draft

DOCSTOR-120102714

THIS MOTION, made by [RECEIVER'S NAME] in its capacity as the Court appointed receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the "Debtor") for an order the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the "CCAA") for an order, *inter alia*, approving: the sale transaction/lease transfer (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and [NAME OF PURCHASER] (the "Purchaser") dated [DATE] and appended to the Report of the Receiver dated [DATE] (the "Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets") "Transaction") contemplated by a Lease Transfer Agreement (the "Lease Transfer Agreement") among Target Canada Co. ("TCC"), as Assignor, and Canadian Tire Real Estate Limited, as Assignee (the "Assignee"), dated May 5, 2015 and certain related relief, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Applicants, the Affidavit of Mark Wong sworn on May 8, 2015 including the exhibits thereto (the "Wong Affidavit"), and the ● Report (the "Monitor's ● Report") of Alvarez & Marsal Canada Inc., in its capacity as Monitor (the "Monitor"), filed, and on hearing the submissions of counsel for the Receiver, [NAMES OF OTHER PARTIES APPEARING], no one appearing for any other person on the service list, respective counsel for the Applicants and the Partnerships listed on Schedule "A" hereto, the Monitor, Target Corporation, the Assignee, and such other counsel as were present, no one else appearing although properly/duly served as appears from the affidavit of [NAME] sworn [DATE] filed<sup>4</sup> Affidavit of Service of Geoffrey Grove sworn May 8, 2015, filed:

### SERVICE AND DEFINITIONS

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

<sup>4</sup> This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.

Draft

DEBTOR-1201927-11

2. THIS COURT ORDERS that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Amended and Restated Initial Order in these proceedings dated January 15, 2015 (the "Initial Order"), or in the Lease Transfer Agreement, as applicable.

### APPROVAL OF THE LEASE TRANSFER AGREEMENT

3. ~~1-~~ THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved,<sup>2</sup> and ratified and that the execution of the Sale Lease Transfer Agreement by the Receiver<sup>3</sup> TCC is hereby ~~authorized and approved, and ratified~~ with such minor amendments as the Receiver may deem necessary. ~~The Receiver~~ TCC (with the consent of the Monitor) and the Assignee may agree to in writing. TCC is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction ~~and for the conveyance of the Purchased Assets to the Purchaser, including the sale, assignment and transfer by TCC of its right, title and interest in and to the Subject Assets to the Assignee and the Monitor shall be authorized to take such additional steps in furtherance of its responsibilities under the Lease Transfer Agreement. The legal descriptions and applicable land registry offices with respect to the Subject Assets are as set out on Schedule "C" hereto.~~

4. ~~2-~~ THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver~~Monitor's~~ certificate to the Purchaser~~Assignee~~ substantially in the form attached as Schedule A~~"B"~~ hereto (the "Receiver"~~"Monitor's Certificate"~~), all of the Debtor~~TCC's~~ right, title and interest in and to the Purchased~~Subject~~ Assets described in the Sale Agreement ~~[and listed on Schedule B hereto]<sup>4</sup> shall vest absolutely in the Purchaser, and the right, title and interest, if any, of any predecessor in interest of TCC in and to the Subject Assets, to the extent same was assigned or otherwise transferred to TCC, shall be sold, assigned and transferred to the~~

<sup>2</sup> In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.

<sup>3</sup> In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.

<sup>4</sup> To allow this Order to be free-standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.

Draft

DOCUMENT 1301027.11



Assignee free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, ~~levies~~leases, licenses, levies, restrictions, rights of retention, judgments, notices of sale, contractual rights, options, liabilities (direct, indirect, absolute or contingent), obligations, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise in respect of the Subject Assets (collectively, the "Claims"<sup>5</sup>), including, without limiting the generality of the foregoing: (i) ~~any encumbrances or charges created by the Order of the Honourable Justice [NAME] dated [DATE];~~ (ii)

- (a) the Administration Charge, the KERP Charge, the Directors' Charge, the Financial Advisor Subordinated Charge, the DIP Lender's Charge, the Agent's Charge and Security Interest (collectively, the "CCAA Charges");
- (b) all charges, security interests or claims evidenced by registrations pursuant to the Personal Property Security Act (Ontario), the Civil Code of Québec, the Alberta Personal Property Security Act, the British Columbia Personal Property Security Act, the Nova Scotia Personal Property Security Act or any other personal property registry system; and (iii)
- (c) those Claims listed on Schedule ~~C~~ hereto "C" hereto;

(all of which are collectively referred to as the "Encumbrances"~~"Encumbrances"~~, which term shall not include the ~~permitted encumbrances, easements and restrictive covenants listed on Schedule D~~Permitted Encumbrances listed on Schedule "D" hereto) and, for greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the Purchased Subject Assets are hereby expunged and discharged as against the Purchased Assets, Subject Assets and the real or immovable property described in Schedule "C" other than

<sup>5</sup> The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.

any registrations made at the applicable land registry of the Leases forming part of the Subject Assets and any memorials of lease, summaries of lease, notices of lease, assignments of lease and any amendments or other registrations pertaining to the Leases forming part of the Subject Assets.

5. ~~3-~~ THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the *Land Registration Reform Act* duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*]<sup>6</sup>; the applicable land registry office of a certified copy of this Order in the manner prescribed by the applicable land registry office, the applicable Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to specifically discharge, cancel, delete and expunge from title to the Real Property applicable real or immovable property described in Schedule "C" all of the Claims Encumbrances listed in Schedule "C" hereto.

6. ~~4-~~ THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds<sup>7</sup> from received on the sale Closing of the Purchased Assets Transaction shall stand in the place and stead of the Purchased Subject Assets, and that from and after the delivery of the Receiver/Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets herefrom with the same priority as they had with respect to the Purchased Subject Assets immediately prior to the sale<sup>8</sup>, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale Closing of the Transaction, as if the Transaction had not been completed.

<sup>6</sup> Elect the language appropriate to the land registry system (Registry vs. Land Titles).

<sup>7</sup> The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".

<sup>8</sup> This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.

Draft

DECEMBER 12, 2014

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

8. ~~6.~~ THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "•" to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor, subject to the terms of the Lease Transfer Agreement nothing herein affects:

- (a) the accommodation provided by TCC to the pharmacists as confirmed by the Endorsement of R.S.J. Morawetz dated February 18, 2015 for the period that shall end on or before March 30, 2015;
- (b) the rights and obligations of TCC and the Agent under the Agency Agreement dated January 29, 2015, as amended (the "Agency Agreement"); and
- (c) the terms of the Approval Order – Agency Agreement granted, February 4, 2015 (the "Agency Agreement Approval Order") including the Sales Guidelines attached as Schedule "B" thereto.

#### GENERAL PROVISIONS

9. ~~7.~~ THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor~~TCC~~ and any bankruptcy order issued pursuant to any such applications; ~~and or~~

Draft

REGISTERED PROFESSIONAL

(c) any assignment in bankruptcy made in respect of the ~~Debtor~~ TCC;

the ~~vesting~~ sale, assignment and transfer of the ~~Purchased~~ Subject Assets ~~into~~ the ~~Purchaser~~ Assignee pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the ~~Debtor~~ TCC and shall not be void or voidable by creditors of the ~~Debtor~~ TCC, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

10. ~~8.~~ THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario) and any equivalent legislation in any other jurisdiction in which all or any part of the Subject Assets are located and that this Order shall be registered notwithstanding the requirements of section 191(1) of the *Land Titles Act*, R.S.A. 2000, c L-4 and equivalent provisions in equivalent legislation in any other jurisdiction in which all or any part of the premises relating to the Subject Assets are located.

11. ~~9.~~ THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative ~~body~~ bodies, having jurisdiction in Canada or in the United States of America, to give effect to this Order and to assist TCC, the ~~Receiver~~ Monitor and ~~its~~ their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to TCC and to the Receiver Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist TCC and the Receiver Monitor and ~~its~~ their respective agents in carrying out the terms of this Order.

Draft

REGISTRAR: 12/04/2014

Revised: January 21, 2014

**Schedule A—Form of Receiver's Certificate**

**SCHEDULE "A"**  
**PARTNERSHIPS**

Target Canada Pharmacy Franchising LP

Target Canada Mobile LP

Target Canada Property LP

Draft

ENCLOSURE-170102711

SCHEDULE "B"

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:-

~~PLAINTIFF~~

Plaintiff

~~-and-~~

~~DEFENDANT~~

Defendant

THE HONOURABLE )  
REGIONAL SENIOR JUSTICE )  
MORAWETZ )  
 )

TUESDAY, THE 19<sup>TH</sup>  
DAY OF MAY, 2015

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 (collectively the "Applicants")

**RECEIVERMONITOR'S CERTIFICATE**

Draft

## RECITALS

- A. Pursuant to an Order of the Honourable [NAME OF JUDGE] of the Ontario Superior Court of Justice (the "Court") dated [DATE OF ORDER], [NAME OF RECEIVER] was appointed as the receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the "Debtor"). All undefined terms in this Monitor's Certificate have the meanings ascribed to them in the Order of the Court dated [May 19], 2015 (the "Approval Order") approving the Lease Transfer Agreement entered into among Target Canada Co. ("TCC") and Canadian Tire Real Estate Limited (the "Assignee") dated May 5, 2015 (the "Lease Transfer Agreement"), a copy of which is attached as Exhibit B to the Affidavit of Mark Wong dated May 8, 2015.
- B. Pursuant to anthe Approval Order of the Court dated [DATE], the Court approved the agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "Sale Agreement") between the Receiver [Debtor] and [NAME OF PURCHASER] (the "Purchaser")Lease Transfer Agreement and provided for the vesting in the Purchaser of the Debtorsale, assignment and transfer to Assignee of TCC's right, title and interest in and to the PurchasedSubject Assets, which vestingsale, assignment and transfer is to be effective with respect to the PurchasedSubject Assets upon the delivery by the ReceiverMonitor to the PurchaserAssignee and TCC of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section sections 8.1, 8.2 and 8.3 of the SaleLease Transfer Agreement have been satisfied or waived by the ReceiverAssignee and the PurchaserTCC, as applicable; and (iii) the Transaction has been completed to the satisfaction of the Receiver.C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale AgreementMonitor.

THE RECEIVERMONITOR CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;

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~~1.~~        ~~2.~~        The conditions to Closing as set out in section ~~8.1, 8.2 and 8.3~~ of the ~~Sale Lease Transfer~~ Agreement have been satisfied or waived by the ~~Receiver Assignee~~ and the ~~Purchaser TCC, as applicable~~; and

~~2.~~        ~~3.~~        The Transaction has been completed to the satisfaction of the ~~Receiver~~ Monitor.

4.        This Monitor's Certificate was delivered by the ~~Receiver~~ Monitor at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

~~[NAME OF RECEIVER] ALVAREZ & MARSAL CANADA INC., in its capacity as Receiver of the undertaking, property and assets of [DEBTOR], Court-appointed Monitor of Target Canada Co., et al.~~ and not in its personal or corporate capacity

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

Draft



Revised: January 21, 2014

Schedule B—Purchased Assets

SCHEDULE "C"

<u>No.</u>	<u>Location/Address</u>	<u>Province</u>	<u>Land Registry Office</u>	<u>Legal Description</u>	<u>Encumbrances to be Expunged/Deleted</u>
<u>NIL</u>	<u>NIL</u>	<u>NIL</u>	<u>NIL</u>	<u>NIL</u>	<u>NIL</u>

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DOCSTOR-1201027144

Revised: January 21, 2014

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

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DOCSTOR-121102114

- 3 -

~~Schedule D—Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property~~

~~(unaffected by the Vesting Order)~~

**SCHEDULE “D” - PERMITTED ENCUMBRANCES**

“Permitted Encumbrances” means, collectively: (a) any Encumbrances (as defined in the Lease Transfer Agreement) encumbering the freehold or other ownership interest in the Property (as defined in the Lease Transfer Agreement) or any other Landlord’s interest in the Property, but excludes any Encumbrances solely encumbering the Assignor’s leasehold interest in and to any Property on which the Premises (as defined in the Lease Transfer Agreement) are located; (b) Encumbrances resulting from the Assignee’s actions or omissions; and (c) the items identified in Schedule “K” of the Lease Transfer Agreement.

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DOCSTOR-1201927114

# **TAB 4**

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE	)	TUESDAY, THE 19 <sup>TH</sup>
REGIONAL SENIOR JUSTICE	)	DAY OF MAY, 2015
MORAWETZ	)	
	)	

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 (collectively the "**Applicants**")

**APPROVAL AND VESTING ORDER – LEASE TRANSFER AGREEMENT**

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the "**CCAA**") for an order, *inter alia*, approving: the lease transfer (the "**Transaction**") contemplated by a Lease Transfer Agreement (the "**Lease Transfer Agreement**") among Target Canada Co. ("**TCC**"), as Assignor, and Canadian Tire Real Estate Limited, as Assignee (the "**Assignee**"), dated May 5, 2015 and certain related relief, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Applicants, the Affidavit of Mark Wong sworn on May 8, 2015 including the exhibits thereto (the "**Wong Affidavit**"), and the ● Report (the "**Monitor's ● Report**") of Alvarez & Marsal Canada Inc., in its capacity as Monitor (the "**Monitor**"), filed, and on hearing the submissions of respective counsel for the Applicants and the Partnerships listed on Schedule "A" hereto, the Monitor, Target Corporation, the Assignee, and

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such other counsel as were present, no one else appearing although duly served as appears from the Affidavit of Service of Geoffrey Grove sworn May 8, 2015, filed:

### **SERVICE AND DEFINITIONS**

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

2. THIS COURT ORDERS that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Amended and Restated Initial Order in these proceedings dated January 15, 2015 (the “**Initial Order**”), or in the Lease Transfer Agreement, as applicable.

### **APPROVAL OF THE LEASE TRANSFER AGREEMENT**

3. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved and ratified and that the execution of the Lease Transfer Agreement by TCC is hereby approved and ratified with such minor amendments as TCC (with the consent of the Monitor) and the Assignee may agree to in writing. TCC is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction, including the sale, assignment and transfer by TCC of its right, title and interest in and to the Subject Assets to the Assignee and the Monitor shall be authorized to take such additional steps in furtherance of its responsibilities under the Lease Transfer Agreement. The legal descriptions and applicable land registry offices with respect to the Subject Assets are as set out on Schedule “C” hereto.

4. THIS COURT ORDERS AND DECLARES that upon the delivery of a Monitor’s certificate to the Assignee substantially in the form attached as Schedule “B” hereto (the “**Monitor’s Certificate**”), all of TCC’s right, title and interest in and to the Subject Assets and the right, title and interest, if any, of any predecessor in interest of TCC in and to the Subject Assets, to the extent same was assigned or otherwise transferred to TCC, shall be sold, assigned and transferred to the Assignee free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, leases, licenses, levies, restrictions, rights of retention, judgments, notices of sale, contractual rights, options, liabilities (direct, indirect,

absolute or contingent), obligations, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise in respect of the Subject Assets (collectively, the “**Claims**”), including, without limiting the generality of the foregoing:

- (a) the Administration Charge, the KERP Charge, the Directors’ Charge, the Financial Advisor Subordinated Charge, the DIP Lender’s Charge, the Agent’s Charge and Security Interest (collectively, the “**CCAA Charges**”);
- (b) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), the *Civil Code of Québec*, the *Alberta Personal Property Security Act*, the *British Columbia Personal Property Security Act*, the *Nova Scotia Personal Property Security Act* or any other personal property registry system; and
- (c) those Claims listed on Schedule “C” hereto;

(all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the Permitted Encumbrances listed on Schedule “D” hereto) and, for greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the Subject Assets are hereby expunged and discharged as against the Subject Assets and the real or immovable property described in Schedule “C” other than any registrations made at the applicable land registry of the Leases forming part of the Subject Assets and any memorials of lease, summaries of lease, notices of lease, assignments of lease and any amendments or other registrations pertaining to the Leases forming part of the Subject Assets.

5. THIS COURT ORDERS that upon the registration in the applicable land registry office of a certified copy of this Order in the manner prescribed by the applicable land registry office, the applicable Land Registrar is hereby directed to specifically discharge, cancel, delete and expunge from title to the applicable real or immovable property described in Schedule “C” all of the Encumbrances listed in Schedule “C” hereto.

6. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds received on the Closing of the Transaction shall stand in the place and stead of the Subject Assets and that from and after the delivery of the Monitor’s

Certificate all Claims and Encumbrances shall attach to the net proceeds therefrom with the same priority as they had with respect to the Subject Assets immediately prior to the Closing of the Transaction, as if the Transaction had not been completed.

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

8. THIS COURT ORDERS that subject to the terms of the Lease Transfer Agreement nothing herein affects:

- (a) the accommodation provided by TCC to the pharmacists as confirmed by the Endorsement of R.S.J. Morawetz dated February 18, 2015 for the period that shall end on or before March 30, 2015;
- (b) the rights and obligations of TCC and the Agent under the Agency Agreement dated January 29, 2015, as amended (the "**Agency Agreement**"); and
- (c) the terms of the Approval Order – Agency Agreement granted, February 4, 2015 (the "**Agency Agreement Approval Order**") including the Sales Guidelines attached as Schedule "B" thereto.

#### **GENERAL PROVISIONS**

9. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of TCC and any bankruptcy order issued pursuant to any such applications; or
- (c) any assignment in bankruptcy made in respect of TCC;

the sale, assignment and transfer of the Subject Assets to the Assignee pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of TCC and shall not be void or voidable by creditors of TCC, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable



transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

10. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario) and any equivalent legislation in any other jurisdiction in which all or any part of the Subject Assets are located and that this Order shall be registered notwithstanding the requirements of section 191(1) of the *Land Titles Act*, R.S.A. 2000, c L-4 and equivalent provisions in equivalent legislation in any other jurisdiction in which all or any part of the premises relating to the Subject Assets are located.

11. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative bodies, having jurisdiction in Canada or in the United States of America, to give effect to this Order and to assist TCC, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to TCC and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist TCC and the Monitor and their respective agents in carrying out the terms of this Order.

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**SCHEDULE "A"**  
**PARTNERSHIPS**

Target Canada Pharmacy Franchising LP

Target Canada Mobile LP

Target Canada Property LP

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**SCHEDULE “B”**

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE	)	TUESDAY, THE 19 <sup>TH</sup>
REGIONAL SENIOR JUSTICE	)	
MORAWETZ	)	DAY OF MAY, 2015
	)	

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 (collectively the “**Applicants**”)

**MONITOR’S CERTIFICATE**

**RECITALS**

- A. All undefined terms in this Monitor’s Certificate have the meanings ascribed to them in the Order of the Court dated [May 19], 2015 (the “**Approval Order**”) approving the Lease Transfer Agreement entered into among Target Canada Co. (“**TCC**”) and Canadian Tire Real Estate Limited (the “**Assignee**”) dated May 5, 2015 (the “**Lease Transfer Agreement**”), a copy of which is attached as Exhibit B to the Affidavit of Mark Wong dated May 8, 2015.
- B. Pursuant to the Approval Order, the Court approved the Lease Transfer Agreement and provided for the sale, assignment and transfer to Assignee of TCC’s right, title and interest in and to the Subject Assets, which sale, assignment and transfer is to be effective with respect to the Subject Assets upon the delivery by the Monitor to the Assignee and TCC of a certificate confirming (i) the conditions to Closing as set out in sections 8.1, 8.2 and 8.3 of the Lease Transfer Agreement have been satisfied or waived by the Assignee and TCC, as applicable; and (ii) the Transaction has been completed to the satisfaction of the Monitor.

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THE MONITOR CERTIFIES the following:

- 1. The conditions to Closing as set out in section 8.1, 8.2 and 8.3 of the Lease Transfer Agreement have been satisfied or waived by the Assignee and TCC, as applicable; and
- 2. The Transaction has been completed to the satisfaction of the Monitor.

This Monitor's Certificate was delivered by the Monitor at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**ALVAREZ & MARSAL CANADA INC.**, in its capacity as Court-appointed Monitor of Target Canada Co., *et al.* and not in its personal or corporate capacity

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

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## SCHEDULE "C"

<b>No.</b>	<b>Location/Address</b>	<b>Province</b>	<b>Land Registry Office</b>	<b>Legal Description</b>	<b>Encumbrances to be Expunged/Deleted</b>
NIL	NIL	NIL	NIL	NIL	NIL

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**SCHEDULE "D" - PERMITTED ENCUMBRANCES**

**"Permitted Encumbrances"** means, collectively: (a) any Encumbrances (as defined in the Lease Transfer Agreement) encumbering the freehold or other ownership interest in the Property (as defined in the Lease Transfer Agreement) or any other Landlord's interest in the Property, but excludes any Encumbrances solely encumbering the Assignor's leasehold interest in and to any Property on which the Premises (as defined in the Lease Transfer Agreement) are located; (b) Encumbrances resulting from the Assignee's actions or omissions; and (c) the items identified in Schedule "K" of the Lease Transfer Agreement.

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**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

**MOTION RECORD OF THE APPLICANTS**

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

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Lawyers for the Applicants

Matter No: 1159785