

RSM Richter

**Fifth Report to Court of
RSM Richter Inc. as Receiver of the
Estate of Robert Mander, E.M.B. Asset
Group Inc. and the Related Entities**

RSM Richter Inc.
Toronto, July 21, 2010

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**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

SA CAPITAL GROWTH CORP.

Applicant

- and -

**CHRISTINE BROOKS AS EXECUTOR OF THE ESTATE OF ROBERT MANDER,
DECEASED AND E.M.B. ASSET GROUP INC.**

Respondent

**IN THE MATTER OF RULE 14.05(3)(G) OF THE *RULES OF CIVIL PROCEDURE* AND
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43**

**FIFTH REPORT OF RSM RICHTER INC.,
AS RECEIVER**

July 21, 2010

1. INTRODUCTION

This report ("Report") is filed by RSM Richter Inc. ("Richter") in its capacity as receiver ("Receiver") pursuant to an order of the Ontario Superior Court of Justice ("Court") dated March 17, 2010 ("Receivership Order"), as amended by orders of the Court made on March 17, 2010, March 19, 2010 and March 31, 2010 (the March 31, 2010 order being the "Fresh as Amended Receivership Order"). A copy of the Fresh as Amended Receivership Order (the "Order") is attached as Appendix "A".

Richter was appointed Receiver pursuant to an application by SA Capital Growth Corp. for the appointment of a receiver over the assets, property and undertaking of E.M.B. Asset Group Inc. ("EMB") and of Robert Mander ("Mander") (jointly, EMB and Mander are defined as the "Respondents") under Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended.

As a result of the amendments to the Receivership Order, the Receivership Order provides the Receiver authority regarding the assets, property and undertaking of entities related to EMB or Mander. These entities include, but are not limited to, Mand Asset Inc., Dunn Street Gallery Inc., (“Gallery”), Trafalgar Capital Growth Inc., Stonebury Inc. and Mander Group Inc. (“Related Entities”) (the Related Entities and the Respondents are collectively referred to as the “Debtors”).

On March 31, 2010, due to the death of Mander, this proceeding was continued against Christine Brooks as Executor of the Estate of Robert Mander and the title of proceedings was changed to reflect the continuance.

1.1 Purposes of this Report

The purposes of this Report are to:

- a) Advise the Court of an offer submitted by Richard Mark McCulloch and Petra McCulloch (“Purchaser”) for the property located at 223 Church Street, Oakville, Ontario (“223 Church”) and detail the terms of the offer and events leading to an agreement of purchase and sale between the Purchaser and the Receiver, which is subject to the Court’s approval;
- b) Recommend that this Honourable Court issue an order:
 - Approving the sale of 223 Church to the Purchaser;
 - Authorizing and directing the Receiver to execute such documents and take such additional steps as are necessary to complete the sale of 223 Church;
 - Vesting in the Purchaser, as of closing, title to 223 Church, free and clear of all liens, charges, security interests and other encumbrances;
 - Authorizing Soka Gakkai International Association of Canada (“SGI”) to refund to the Receiver donations totalling \$320,500 made by Mander to SGI in the period September 1, 2005 to January 31, 2009;
 - Directing and authorizing the law firm of O’Connor MacLeod Hanna LLP to provide the Receiver with any and all information regarding its retainers by Mander and/or any of the Debtors; and
 - Approving this Report and the Receiver’s activities set out in this Report.

1.2 Currency

All currency references are in Canadian dollars unless otherwise specified.

1.3 Restrictions

In preparing this Report, the Receiver has relied upon unaudited financial information and books and records located at the premises of the Debtors as well as at various other locations where Mander carried on business or is believed to have carried on business, maintained an office, files or a safe, whether presently, in the past and/or periodically, and documents, records and information provided by various individuals and financial institutions. The Receiver has not performed an audit or other verification of the documents and information it has accumulated. The Receiver expresses no opinion or other form of assurance with respect to the accuracy of any information, documents and financial information presented in and/or discussed in this Report, or relied upon by the Receiver in preparing this Report.

Because of Mander's death, the Receiver has not had the benefit of speaking with the one individual - Mander - who could have provided first-hand information regarding the businesses he conducted. As a result, the Receiver has been required to conduct its investigation by reviewing documents and meeting with individuals with knowledge of Mander and his businesses.

2. BACKGROUND

Background information concerning these receivership proceedings is included in the initial application materials and in the Receiver's various reports to Court regarding these proceedings. These documents are available on the Receiver's website at www.rsmrichter.com.

3. 223 CHURCH

223 Church was purchased by EMB on June 20, 2008 for \$1.2 million. Home Trust Company ("Home Trust") has a mortgage on the property in the amount of approximately \$612,000. There are no other known mortgages or liens on the property.

On April 26, 2010, the Receiver entered into a listing agreement with Avison Young Commercial Real Estate (Ontario) Inc. ("Agent") to list 223 Church for sale at \$1.395 million. On July 6, 2010, the listing price was reduced to \$1.225 million. 223 Church was the premises from which the Gallery operated. During the course of the marketing process, it was brought to the Receiver's attention that there were outstanding deficiencies identified by the Town of Oakville that would need to be remedied before a purchaser could obtain a commercial use occupancy permit for the property. The Receiver understands that the costs to remedy the deficiencies could be several hundred thousand dollars. As well, feedback from prospective residential purchasers was that there would be significant costs required to convert 223 Church back to a property suitable for residential use. The Receiver took these factors into consideration when determining the listing price reduction and in its negotiation of the purchase price with the Purchaser.

On July 7, 2010, the Purchaser submitted an offer to purchase 223 Church for \$1 million. After negotiation, the Receiver accepted an offer from the Purchaser on July 14, 2010 for \$1.075 million (inclusive of harmonized sales tax ("HST")). The Purchaser is a real estate agent and has agreed to forgo its commission, in effect increasing the purchase price by approximately \$24,000. Further, the agreement of purchase and sale provides that the Purchaser is required to apply for a refund or rebate of the HST within 14 days of closing the sale transaction and any refund received must be remitted to the Receiver within 24 hours of its receipt. The Receiver understands that the maximum refund that may be received is \$24,000.

The proposed transaction is subject only to Court approval, contemplates a closing date of August 20, 2010 and is consistent with standard insolvency transactions (limited representations and warranties). The Purchaser has paid a deposit of \$30,000. Since the commencement of the marketing process, there was one other offer received for the property; however, the prospective buyer was a commercial buyer and due to the deficiencies referenced, decided not to complete a transaction.

A copy of the offer is provided in Appendix "B".

3.1 Recommendation

For the following reasons, the Receiver recommends that the Court issue an order approving the transaction and vesting title of 223 Church in the Purchaser:

- 223 Church was marketed by a professional real estate firm using traditional methods for selling real estate;
- The Agent is familiar with the local real estate market;
- Monthly upkeep (utilities, insurance and property taxes) totals approximately \$1,200. There is a risk that absent the recommended sale, a long marketing period would be required, thereby eroding the nominal equity¹ in the property;
- The Purchaser's offer is only conditional upon Court approval;
- There has been limited interest in the property;
- The selling price is consistent with comparable transactions; and
- It is the Agent's view that the purchase price is reasonable.

¹ Defined as the value by which the net selling price exceeds the mortgage.

3.2 Use of Proceeds

The only known claim against 223 Church is the Home Trust mortgage. Pursuant to the Receivership Order and the subsequent orders issued in these proceedings, the Receiver has a first charge on the properties, assets and undertakings of the Debtors and the Related Entities. Accordingly, the Receiver intends to use the proceeds from the sale of the real estate and from the return of the Donations to fund the costs of the receivership, including professional fees.

4. SOKA GAKKAI INTERNATIONAL ASSOCIATION OF CANADA

As reported in the Receiver's fourth report to Court dated July 2, 2010 ("Fourth Report"), during the period September 1, 2005 to January 31, 2009 ("Donation Period"), Mander and/or his companies made donations to SGI totalling \$320,500 ("Donations"). Also as set out in the Fourth Report, a review of the Debtor's bank accounts and trading account activity indicates that Mander did not have any source of income during the Donation Period other than funds received from the investors that were the subjects of his scheme/(s). The funds received by Mander and/or his companies were either used to repay loans to other investors or to fund Mander's lifestyle.

During its attendance at Court on July 14, 2010, the Receiver advised this Honourable Court that SGI had contacted the Receiver to advise that, on moral grounds, it would be returning the Donations to the Receiver. The Receiver filed with the Court a letter from SGI's counsel dated July 13, 2010 with respect to same. Accordingly, SGI has requested that the Receiver seek an order of the Court authorizing SGI to return the Donations to the Receiver.

5. O'CONNOR MACLEOD HANNA LLP

The Receiver's legal counsel, Davies Ward Phillips & Vineberg LLP ("Davies"), was recently advised by Ms. Brooks' legal counsel that Megan Brown, a lawyer with the firm O'Connor MacLeod Hanna LLP, was acting for Mander at the time of his death to set up an estate trust for Mander in the name of his son. On July 15, 2010, Davies contacted Ms. Brown. Ms. Brown advised that she was willing to cooperate with the Receiver but had concerns regarding solicitor and client privilege. As a result, the Receiver agreed that it would seek an order directing and authorizing Ms. Brown to provide the Receiver with any and all information related to Mander and/or any of the Debtors. In addition, Ms. Brooks, the executor of the estate, has confirmed to the Receiver that she has waived privilege with respect to Ms. Brown and her dealings with Mander.

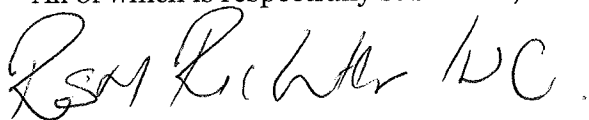
Accordingly, the Receiver requests that this Honourable Court make an order directing and authorizing Ms. Brown to disclose to the Receiver any and all matters related to Mander and/or any of the other Debtors and to provide the Receiver with copies of any documentation related to same.

6. CONCLUSION AND RECOMMENDATION

Based on the foregoing, the Receiver respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1 (b) of this Report.

* * *

All of which is respectfully submitted,



**RSM RICHTER INC.
IN ITS CAPACITY AS COURT-APPOINTED
RECEIVER OF THE ESTATE OF ROBERT MANDER,
E.M.B. ASSET GROUP INC. AND THE RELATED ENTITIES
AND NOT IN ITS PERSONAL CAPACITY**

RSM Richter

Appendix “A”

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) WEDNESDAY, THE 31ST DAY
)
JUSTICE MORAWETZ) OF MARCH, 2010

B E T W E E N :

SA CAPITAL GROWTH CORP.

Applicant

- and -

**CHRISTINE BROOKS AS EXECUTOR OF THE ESTATE OF ROBERT MANDER,
DECEASED AND E.M.B. ASSET GROUP INC.**

Respondents



**APPLICATION UNDER Rule 14.05(3)(g) of the *Rules of Civil Procedure* and section 101 of the *Courts of Justice Act*,
R.S.O. 1990. c. C.43, as amended**

FRESH AS AMENDED RECEIVERSHIP ORDER

THIS MOTION made by RSM Richter Inc. (the "Receiver"), in its capacity as Receiver of all of the assets, undertakings and properties of the estate of Robert Mander and E.M.B. Asset Group Inc. (the "Debtors") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report of the Receiver dated March 29, 2010 (the "First Report"), the Supplement to the First Report date March 30, 2010 (the "Supplement") and on hearing the submissions of counsel for the Receiver and others,

SERVICE

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

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 101 of the *Courts of Justice Act*, R.S.O., c. 43, as amended, RSM Richter Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtors and any corporations or other entities associated with, related to or controlled by the Debtors (the "Related Entities") (the "Property").

3. **THIS COURT ORDERS** that "Related Entities" includes, in particular, but is not limited to the following corporations: Mand Asset Inc.; Dunn Street Gallery Inc.; Trafalgar Capital Growth Inc. and Mander Group Inc. and Stonebury Inc.

RECEIVER'S POWERS

4. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect of the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of

independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to take any steps that the Receiver may, in its sole discretion, deem necessary or desirable to prevent any disbursement, withdrawal or transfer of funds by the Debtors or Related Entities or the sale, encumbrance or transfer of personal or real property of the Debtors or Related Entities, including the real property listed in Schedule B hereto (collectively, "Dispositions"), pending further order of this Court;
- (d) to direct any financial institution, wherever located and including those listed on Schedule A hereto to cease to allow any withdrawals or transfers from any account that the Debtors or Related Entities hold with such institution, including those listed on Schedule A hereto, unless otherwise directed by the Receiver in writing or by order of this Court;
- (e) to monitor and investigate the affairs of the Debtors and Related Entities;
- (f) to conduct examinations of any Person (as defined below), if deemed necessary or desirable in the Receiver's discretion;
- (g) to manage, operate, and carry on the business of the Debtors or Related Entities, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors or Related Entities;
- (h) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;

- (i) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or Related Entities or any part or parts thereof;
- (j) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors or Related Entities and to exercise all remedies of the Debtors or Related Entities in collecting such monies, including, without limitation, to enforce any security held by the Debtors or Related Entities;
- (k) to settle, extend or compromise any indebtedness owing to the Debtors or Related Entities;
- (l) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors or Related Entities, for any purpose pursuant to this Order;
- (m) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors or Related Entities, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (n) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (o) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

- (i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$300,000; and
- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (p) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (q) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (r) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (s) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors or Related Entities;
- (t) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors or Related Entities, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors or Related Entities;

- (u) to exercise any shareholder, partnership, joint venture or other rights which the Debtors or Related Entities may have;
- (v) to make or cause to be made an assignment in bankruptcy of any of the Debtors or Related Entities and to act as trustee in bankruptcy thereof; and
- (w) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors or Related Entities, and without interference from any other Person.

5. **THIS COURT ORDERS** that the Receiver shall file with the Court a report outlining its preliminary findings and recommendations with respect to the Debtors and Related Entities within 14 calendar days from March 17, 2010.

6. **THIS COURT ORDERS** that the Receiver may, in its sole discretion, apply to the Court at any time on three (3) days notice, for an Order that the Receiver shall be discharged as Receiver.

7. **THIS COURT ORDERS** that in the event that the Receiver applies for discharge in accordance with paragraph 6 above, such discharge shall be granted on such terms as this Court deems appropriate.

8. **THIS COURT ORDERS** that no party shall undertake any Dispositions except with the prior written consent of the Receiver or leave of this Court.

9. **THIS COURT ORDERS** that any transfer, disposition, encumbrance or other dealing with the real property legally or beneficially owned by the Debtors or Related Entities, including that real property specified in Schedule B, following registration of the Order of this Honourable Court made March 17, 2010 granted in this proceeding on title to such real property shall be invalid.

10. **THIS COURT ORDERS** that no financial institution, wherever located, with notice of this Order shall permit any transfer or disbursement of any funds whether currently deposited or received in the future in any account held in the name of either of the Debtors or Related Entities without the prior written consent of the Receiver or leave of this Court.

11. **THIS COURT ORDERS** that the Receiver may, in its discretion, provide a key to access the premises at 223 Church St., Oakville, to Colleen Auriemma, and in the event that a key is so provided, Colleen Auriemma shall not provide that key or a copy thereof to any other person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

12. **THIS COURT ORDERS** that (i) the Debtors or Related Entities, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

13. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors or Related Entities, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 13 or in paragraph 14 of this

Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

14. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

15. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

16. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtors or Related Entities or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or Related Entities or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

17. **THIS COURT ORDERS** that all rights and remedies against the Debtors or Related Entities, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors or Related Entities to carry on any business which the Debtors or Related Entities are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors or Related Entities from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

18. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors or Related Entities, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

19. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtors or Related Entities or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors or Related Entities are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' or Related Entities' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges

for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or Related Entities or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

20. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

21. **THIS COURT ORDERS** that all employees of the Debtors or Related Entities shall remain the employees of the Debtors or Related Entities until such time as the Receiver, on the Debtors' or Related Entities' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

LIMITATION ON ENVIRONMENTAL LIABILITIES

22. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management

(separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

23. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

24. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements in respect of either Respondent, in each case at their standard rates and charges, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for all such fees and disbursements in respect of either Respondent, both before and after the making of this Order in respect of these

proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA, and also subject to any security interest perfected in accordance with the *Personal Property Security Act* (Ontario) as of March 17, 2010 or any security interest in real property of the Debtors or Related Entities, including the real property listed in Schedule B, which has been properly registered on title to such real property prior to March 17, 2010.

25. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

26. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

APPROVAL OF REPORTS AND ACTIVITIES

27. **THIS COURT ORDERS** that the First Report and the Supplement and the activities of the Receiver referred to therein be and are hereby approved.

GENERAL

28. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

29. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors or Related Entities.

Schedule B

Real Property

Lot 1, Plan 466, Oakville, being all of PIN 24796-0025 (LT), Land Registry Office #20, municipally known as 1225 Lawrence Cres., Oakville, Ontario.

Part Lot E, Block 3, Plan 1, Parts 9 and 27, Reference Plan 20R12967, Parts 2 and 4, Reference Plan 20R12968; Oakville, being all of PIN 24813-0327 (LT), Land Registry Office #20, municipally known as 223 Church St., Oakville, Ontario.

Part Lot E, Block 3, Plan 1, Parts 11 and 29, Reference Plan 20R12967, Parts 1 and 3, Reference Plan 20R12968, being all of PIN 24813-0328 (LT), Land Registry Office #20, municipally known as 225 Church St., Oakville, Ontario.

Parcel 8-1, Section 62M547; Lot 8, Plan 62M547; subject to LT235295; subject to LT220459; Flamborough City of Hamilton, being all of PIN 17524-0005 (LT), Land Registry Office #62, municipally known as 17 Stonebury Place, Freelon, Ontario.

Part Lot 26, Concession 3 WHS Caledon as in RO1108476, save and except Part 5 Plan 43R-16764; Caledon, being all of PIN 14280-0322 (LT), Land Registry Office #43, municipally known as 1650 High Point Road, Caledon, Ontario.

Part Lot 26, Concession 3 WHS Caledon, Part 4, Reference Plan 43R16764; Caledon, being all of PIN 14280-0316 (LT), Land Registry Office #43.

SA CAPITAL GROWTH CORP. and
Applicant

CHRISTINE BROOKS AS EXECUTOR OF THE ESTATE OF ROBERT
MANDER, DECEASED AND E.M.B. ASSET GROUP INC.
Respondents

Court File No: 10-8619-00CL

APPLICATION UNDER Rule 14.05(3)(g) of the *Rules of Civil Procedure* and section 101 of the *Courts of Justice Act*, R.S.O. 1990. c. C.43, as amended

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**FRESH AS AMENDED
RECEIVERSHIP ORDER
(RETURNABLE March 31, 2010)**

DAVIES WARD PHILLIPS & VINEBERG LLP
44th Floor, 1 First Canadian Place
Toronto, ON M5X 1B1

Matthew Gottlieb (LSUC #32268B)
Tel: 416.863.5516
Fax: 416.863.0971

Lawyers for the Receiver

Appendix “B”

This Agreement of Purchase and Sale dated July 14, 2010

BUYER, Richard Mark McCulloch and Petra McCulloch, agrees to purchase from INC.
(Full legal names of all Buyers)

SELLER, Rsm Richter Inc. Solely in Its Capacity as Court Appointed Receiver of E.M.B. Asset Group Inc.
(Full legal names of all Sellers)

REAL PROPERTY:

Address 223 Church Street fronting on the North side of Church Street

in the Town of Oakville, Regional Municipality of Halton

and having a frontage of 24.40 Feet more or less by a depth of 104.40 Feet more or less and legally

described as Part Lot E, Block 3 Plan 1 Parts 9 & 27 20R12967 Parts 2 & 4 20R12968

(the "property").

(Legal description of land including easements not described elsewhere)

PURCHASE PRICE: One Million Seventy-Five Thousand

Dollars (CDN\$) 1,075,000.00

DEPOSIT: Buyer submits Upon Acceptance
(Herewith/Upon acceptance/as otherwise described in this Agreement)

Thirty Thousand Dollars (CDN\$) 30,000.00

by negotiable cheque payable to Avison Young Commercial Real Estate (Ontario), Brokerage "Deposit Holder" to be held in trust pending completion or other termination of this Agreement and to be credited toward the Purchase Price on completion. For the purposes of this Agreement, "Upon Acceptance" shall mean that the Buyer is required to deliver the deposit to the Deposit Holder within 24 hours of the acceptance of this Agreement. The parties to this Agreement hereby acknowledge that, unless otherwise provided for in this Agreement, the Deposit Holder shall place the deposit in trust in the Deposit Holder's non-interest bearing Real Estate Trust Account and no interest shall be earned, received or paid on the deposit.

Buyer agrees to pay the balance as more particularly set out in Schedule A attached.

SCHEDULE(S) A, B attached hereto form(s) part of this Agreement.

- IRREVOCABILITY:** This Offer shall be irrevocable by Buyer until 6:00 p.m. on the 14th day of July, 2010, after which time, if not accepted, this Offer shall be null and void and the deposit shall be returned to the Buyer in full without interest.
- COMPLETION DATE:** This Agreement shall be completed by no later than 6:00 p.m. on the 20th day of August, 2010. Upon completion, vacant possession of the property shall be given to the Buyer unless otherwise provided for in this Agreement.
- NOTICES:** Seller hereby appoints the Listing Brokerage as Agent for the purpose of giving and receiving notices pursuant to this Agreement. **Only if the Co-operating Brokerage represents the interests of the Buyer in this transaction**, the Buyer hereby appoints the Co-operating Brokerage as Agent for the purpose of giving and receiving notices pursuant to this Agreement. Any notice relating hereto or provided for herein shall be in writing. This offer, any counter offer, notice of acceptance thereof, or any notice shall be deemed given and received, when hand delivered to the address for service provided in the Acknowledgement below, or where a facsimile number is provided herein, when transmitted electronically to that facsimile number.

Fax No. 905 - 712 2937 (For delivery of notices to Seller)

Fax No. (905) 338-3411 (For delivery of notices to Buyer)

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):



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4. **EXISTING CHATELS INCLUDED:** all electric light fixtures, all window coverings including blinds, shutters (if any), drapes and hardware (if any), existing built-in dishwasher, stove top, oven, microwave, fridge, washer and dryer, all existing shelving and organizers in all closets, all bathroom mirrors, surround sound speakers, alarm monitoring system, central air conditioning, gas furnace, central air conditioning and all other fixtures currently on the premises.
5. **FIXTURES EXCLUDED:** any auction items (chattels only) to be removed by Vendor at Vendor's expense prior to completion.
6. **RENTAL ITEMS:** The following equipment is rented and **not** included in the Purchase Price. The Buyer agrees to assume the rental contract(s), if assumable: Hot Water Tank.
7. **GST:** If this transaction is subject to Goods and Services Tax (G.S.T.), then such tax shall be included in the Purchase Price. If this transaction is not subject to G.S.T., Seller agrees to certify on or before closing, that the transaction is not subject to G.S.T. *or Harmonized Sales Tax (H.S.T.)*
8. **TITLE SEARCH:** Buyer shall be allowed until 6:00 p.m. on the 28th day of July, 2010, (Requisition Date) to examine the title to the Property at Buyer's own expense and until the earlier of: (i) thirty days from the later of the Requisition Date or the date on which the conditions in this Agreement are fulfilled or otherwise waived or; (ii) five days prior to completion, to satisfy Buyer that there are no outstanding work orders or deficiency notices affecting the property, that its present use (Residential) may be lawfully continued and that the principal building may be insured against risk of fire. Seller hereby consents to the municipality or other governmental agencies releasing to Buyer details of all outstanding work orders and deficiency notices affecting the property, and Seller agrees to execute and deliver such further authorizations in this regard as Buyer may reasonably require.
9. **FUTURE USE:** Seller and Buyer agree that there is no representation or warranty of any kind that the future intended use of the property by Buyer is or will be lawful except as may be specifically provided for in this Agreement.
10. **TITLE:** Provided that the title to the property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for (a) any registered restrictions or covenants that run with the land providing that such are complied with; (b) any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been complied with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility; (c) any minor easements for the supply of domestic utility or telephone services to the property or adjacent properties; and (d) any easements for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the use of the property. If within the specified times referred to in paragraph 8 any valid objection to title or to any outstanding work order or deficiency notice, or to the fact the said present use may not lawfully be continued, or that the principal building may not be insured against risk of fire is made in writing to Seller and which Seller is unable or unwilling to remove, remedy or satisfy or obtain insurance save and except against risk of fire in favour of the Buyer and any mortgagee, (with all related costs at the expense of the Seller), and which Buyer will not waive, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and Seller, Listing Brokerage and Co-operating Brokerage shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, Buyer shall be conclusively deemed to have accepted Seller's title to the property.
11. **CLOSING ARRANGEMENTS:** Where each of the Seller and Buyer retain a lawyer to complete the Agreement of Purchase and Sale of the Property, and where the transaction will be completed by electronic registration pursuant to Part III of the Land Registration Reform Act, R.S.O. 1990, Chapter L4 and the Electronic Registration Act, S.O. 1991, Chapter 44, and any amendments thereto, the Seller and Buyer acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the "Requisite Deliveries") and the release thereof to the Seller and Buyer will (a) not occur at the same time as the registration of the transfer/deed (and any other documents intended to be registered in connection with the completion of this transaction) and (b) be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers. The Seller and Buyer irrevocably instruct the said lawyers to be bound by the document registration agreement which is recommended from time to time by the Law Society of Upper Canada. Unless otherwise agreed to by the lawyers, such exchange of the Requisite Deliveries will occur in the applicable Land Titles Office or such other location agreed to by the lawyers.
12. **DOCUMENTS AND DISCHARGE:** Buyer shall not call for the production of any title deed, abstract, survey or other evidence of title to the property except such as are in the possession or control of Seller. If requested by Buyer, Seller will deliver any sketch or survey of the property within Seller's control to Buyer as soon as possible and prior to the Requisition Date. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Trust And Loan Companies Act

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):



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or is dealt with by the order referred to in Schedule B

(Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company and which is not to be assumed by Buyer on completion, is not available in registrable form on completion, Buyer agrees to accept Seller's lawyer's personal undertaking to obtain, out of the closing funds, a discharge in registrable form and to register same, or cause same to be registered, on title within a reasonable period of time after completion, provided that on or before completion Seller shall provide to Buyer a mortgage statement prepared by the mortgagee setting out the balance required to obtain the discharge, and, where a real-time electronic cleared funds transfer system is not being used, a direction executed by Seller directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.

13. **INSPECTION:** Buyer acknowledges having had the opportunity to inspect the property and understands that upon acceptance of this Offer there shall be a binding agreement of purchase and sale between Buyer and Seller. **The Buyer acknowledges having the opportunity to include a requirement for a property inspection report in this Agreement and agrees that except as may be specifically provided for in this Agreement, the Buyer will not be obtaining a property inspection or property inspection report regarding the property.**
14. **INSURANCE:** All buildings on the property and all other things being purchased shall be and remain until completion at the risk of Seller. Pending completion, Seller shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, Buyer may either terminate this Agreement and have all monies paid returned without interest or deduction or else take the proceeds of any insurance and complete the purchase. No insurance shall be transferred on completion. If Seller is taking back a Charge/Mortgage, or Buyer is assuming a Charge/Mortgage, Buyer shall supply Seller with reasonable evidence of adequate insurance to protect Seller's or other mortgagee's interest on completion.
15. **PLANNING ACT:** This Agreement shall be effective to create an interest in the property only if Seller complies with the subdivision control provisions of the Planning Act by completion and Seller covenants to proceed diligently at his expense to obtain any necessary consent by completion.
16. **DOCUMENT PREPARATION:** The Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of Seller, and any Charge/Mortgage to be given back by the Buyer to Seller at the expense of the Buyer. If requested by Buyer, Seller covenants that the Transfer/Deed to be delivered on completion shall contain the statements contemplated by Section 50(22) of the Planning Act, R.S.O. 1990.
17. **RESIDENCY:** Buyer shall be credited towards the Purchase Price with the amount, if any, necessary for Buyer to pay to the Minister of National Revenue to satisfy Buyer's liability in respect of tax payable by Seller under the non-residency provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate or a statutory declaration that Seller is not then a non-resident of Canada.
18. **ADJUSTMENTS:** Any rents, mortgage interest, realty taxes including local improvement rates and unmetered public or private utility charges and unmetered cost of fuel, as applicable, shall be apportioned and allowed to the day of completion, the day of completion itself to be apportioned to Buyer.
19. **PROPERTY ASSESSMENT:** The Buyer and Seller hereby acknowledge that the Province of Ontario has implemented current value assessment and properties may be re-assessed on an annual basis. The Buyer and Seller agree that no claim will be made against the Buyer or Seller, or any Brokerage or Salesperson, for any changes in property tax as a result of a re-assessment of the property.
20. **TIME LIMITS:** Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective lawyers who may be specifically authorized in that regard.
21. **TENDER:** Any tender of documents or money hereunder may be made upon Seller or Buyer or their respective lawyers on the day set for completion. Money may be tendered by bank draft or cheque certified by a Chartered Bank, Trust Company, Province of Ontario Savings Office, Credit Union or Caisse Populaire.
22. **FAMILY LAW ACT:** ~~Seller warrants that spousal consent is not necessary to this transaction under the provisions of the Family Law Act, R.S.O. 1990 unless Seller's spouse has executed the consent hereinafter provided.~~
23. **UFFI:** ~~Seller represents and warrants to Buyer that during the time Seller has owned the property, Seller has not caused any building on the property to be insulated with insulation containing ureaformaldehyde, and that to the best of Seller's knowledge no building on the property contains or has ever contained insulation that contains ureaformaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is the subject of this transaction.~~
24. **CONSUMER REPORTS:** **The Buyer is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.**
25. **AGREEMENT IN WRITING:** If there is conflict or discrepancy between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement including any Schedule attached hereto, shall constitute the entire Agreement between Buyer and Seller. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein. For the purposes of this Agreement, Seller means vendor and Buyer means purchaser. This Agreement shall be read with all changes of gender or number required by the context.
26. **TIME AND DATE:** Any reference to a time and date in this Agreement shall mean the time and date where the property is located.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):



27. **SUCCESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

(Witness)

(Buyer)



DATE 7/14/2010

(Witness)

(Buyer)



DATE 7/14/2010

I, the Undersigned Seller, agree to the above Offer. I hereby irrevocably instruct my lawyer to pay directly to the Listing Brokerage the unpaid balance of the commission together with applicable Goods and Services Tax (and any other taxes as may hereafter be applicable), from the proceeds of the sale prior to any payment to the undersigned on completion, as advised by the Listing Brokerage to my lawyer.

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

(Witness)

(Seller)



DATE 7/14/10

(Witness)

(Seller)



DATE

SPOUSAL CONSENT: The Undersigned Spouse of the Seller hereby consents to the disposition evidenced herein pursuant to the provisions of the Family Law Act, R.S.O. 1990, and hereby agrees with the Buyer that he/she will execute all necessary or incidental documents to give full force and effect to the sale evidenced herein.

(Witness)

(Spouse)



DATE

CONFIRMATION OF ACCEPTANCE: Notwithstanding anything contained herein to the contrary, I confirm this Agreement with all changes both typed and written was finally accepted by all parties at 5:05 a.m./p.m. this 14th day of July, 2010.

INFORMATION ON BROKERAGE(S)

Listing Brokerage Avison Young Commercial Real Estate (Ontario), Brokerage
Phone 905-712-2100 Fax 905-712-2937
Co-operating/Buyer Brokerage RE/MAX Aboutowne Realty Corp.
Phone (905) 338-9000 Fax (905) 338-3411

ACKNOWLEDGEMENT

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Agent to forward a copy to my lawyer.

Rsm Richter Inc. Solely in its capacity as Court Appointed Receiver of EMB Asset Group Inc.
DATE July 14/10

(Seller)

Address for Service: Roxbury St. W. Suite 1100 Toronto
on text msh 314 Phone 416-932-8000

Seller's Lawyer: David Ward Phillips + Vineberg LLP

Address: 1 First Canadian Place, Toronto ON

Phone 416-863-5567 Fax 416-863-0871

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Agent to forward a copy to my lawyer.

(Buyer)

(Buyer)

Address for Service:

Phone

Buyer's Lawyer

Address

Phone Fax

FOR OFFICE USE ONLY

COMMISSION TRUST AGREEMENT

To: Co-operating Brokerage shown on the foregoing Agreement of Purchase and Sale:

In consideration for the Co-operating Brokerage procuring the foregoing Agreement of Purchase and Sale, I hereby declare that all moneys received or receivable by me in connection with the Transaction as contemplated in the MLS® Rules and Regulations of my Real Estate Board shall be receivable and held in trust. This agreement shall constitute a Commission Trust Agreement as defined in the MLS® Rules and shall be subject to and governed by the MLS® Rules pertaining to Commission Trust.

DATED as of the date and time of the acceptance of the foregoing Agreement of Purchase and Sale.

Acknowledged by:

(Authorized to bind the Listing Brokerage)

(Authorized to bind the Co-operating Brokerage)



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Schedule A Agreement of Purchase and Sale

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER, Richard Mark McCulloch and Petra McCulloch, and

SELLER, Rsm Richter Inc. Solely in Its Capacity as Court Appointed Receiver of E.M.B. Asset Group Inc.,

for the purchase and sale of 223 Church Street in the Town of Oakville, Regional Municipality of Halton

Agreement of Purchase and Sale dated July 14, 2010

The Buyer agrees to pay the balance of the purchase price, subject to adjustments, by bank draft or certified cheque, to the Seller on the completion of this transaction.

The Buyer shall have the right to re-visit the property three further times prior to completion, at a mutually agreed upon time, provided that notice is given to the Seller. The Seller agrees to provide access to the property for the purpose of this visit.

The Seller agrees to provide, at his/her expense, to the buyer on closing day all keys, garage door opener remote controls, floor plans and surveys and/or lot plans, all manuals and warranty documents currently in the Vendor's possession.

The purchase price includes Harmonized Sales Tax (HST) payable by the Seller to the Government of Canada on closing. The Seller shall breakout the HST payable from the net purchase price in the Statement of Adjustments produced for closing.

Within 14 days of closing, the Buyer shall apply for a refund or rebate of a portion of the HST remitted by the Seller on closing and shall within 24 hours thereafter provide evidence of such application to the Seller, which evidence shall be satisfactory to the Seller, in its discretion, acting reasonably. The Buyers undertake to deliver to the Seller within 24 hours of receipt the full amount of any rebate or refund that the Buyer receives. The Buyers will use their best efforts herein but make no representation, promise or warranty as to the availability of any such rebate or refund of HST. The Buyer represents and promises to seek the refund or rebate within the 14 day period noted herein and to cooperate with the Vendor to collect any refund or rebate.

Any notice relating hereto or provided for herein shall be in writing. This Offer, any counter offer, notice of acceptance thereof, or any notice shall be deemed given and received, when hand delivered to the address for service provided herein or, where a facsimile number is provided herein, when transmitted electronically to that facsimile number.

This page must be initialed by all parties to the Agreement of Purchase and Sale.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):



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RE/MAX Aboutowne Realty Corp.

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SCHEDULE "B"

Except as expressly stated, the Buyer acknowledges that the Seller is selling the Property on an "as is, where is" basis. No representation, warranty or condition is expressed or can be implied as to any matter including title, description, condition, quantity or quality or in respect of any other matter or thing whatsoever concerning the Property and, without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to legislation do not apply hereto and have been waived by the Seller. The Buyer acknowledges that the Seller is under no obligation whatsoever to conduct any repairs or complete any unfinished work.

The sale of the Property is conditional on the granting of an Order by the Ontario Superior Court of Justice (the "Vesting Order") approving the sale of the Property and vesting all the Seller's right, title and interest, if any, to the Property in the Buyer prior to the ~~Completion Date~~ and the operation and effect of such order shall not have been stayed, amended, modified, reversed or dismissed and no appeals of the Vesting Order shall be pending at the Completion Date.

Closing Arrangements

The Buyer acknowledges that title to the Property will be transferred to the Buyer pursuant to a Vesting Order and that the Vesting Order will not be effective until RSM Richter Inc., in its capacity as Court Appointed Receiver of E.M.B. Asset Group Inc., delivers its certificate that it has received all of the purchase price and that the transaction has been completed. Accordingly, this transaction will be completed and the closing deliveries of the parties will be released prior to the time the Vesting Order is registered.

August 12, 2010
[Signature]
[Signature]

Confirmation of Co-operation and Representation

for use in the Province of Ontario

BUYER: Richard Mark McCulloch and Petra McCulloch

SELLER: Rsm Richter Inc. Solely in Its Capacity as Court Appointed Receiver of E.M.B. Asset Group Inc.

For the transaction on the property known as: 223 Church Street

For the purposes of this Confirmation of Co-operation and Representation, a "Seller" includes a vendor, a landlord, or a prospective, seller, vendor or landlord and a "Buyer" includes a purchaser, a tenant, or a prospective, buyer, purchaser or tenant and a "sale" includes a lease.

The following information is confirmed by the undersigned salesperson/broker representatives of the Brokerage(s). If a Co-operating Brokerage is involved in the transaction, the brokerages agree to co-operate, in consideration of, and on the terms and conditions as set out below.

DECLARATION OF INSURANCE: The undersigned salesperson/broker representative(s) of the Brokerage(s) hereby declare that he/she is insured as required by the Real Estate and Business Brokers Act (REBBA) and Regulations.

1. LISTING BROKERAGE

The Listing Brokerage represents the interests of the Seller in this transaction.

2. CO-OPERATING BROKERAGE

The Co-operating Brokerage represents the interests of the Buyer in this transaction. It is further understood and agreed that the Listing Brokerage will pay the Co-operating Brokerage:

☐ the commission as indicated in the MLS® information for the property

or, if not an MLS® listing: ☒ a commission of No Commission Will be Paid to Co-Operating Brokerage.

plus applicable Goods and Services Tax, from the amount paid by the Seller to the Listing Brokerage, on any trade wherein the Co-operating Brokerage has obtained an accepted Agreement of Purchase and Sale, option to Purchase or Agreement to Exchange and/or Lease. Said payment of commission will not make the Co-operating Brokerage either the agent or sub-agent of the Seller or the Listing Brokerage.

Additional comments and/or disclosures by Listing Brokerage:

Additional comments and/or disclosures by Co-operating Brokerage: One of the Purchasers (Petra McCulloch) is a registered Real Estate Broker representing RE/MAX Aboutowne Realty Corp.

COMMISSION TRUST AGREEMENT: If the above Co-operating Brokerage is receiving payment of commission from the Listing Brokerage, then the agreement between Listing Brokerage and Co-operating Brokerage further includes a Commission Trust Agreement, the consideration for which is the Co-operating Brokerage procuring an offer for a trade of the property, acceptable to the Seller. This Commission Trust Agreement shall be subject to and governed by the MLS® rules and regulations pertaining to commission trusts of the Listing Brokerage's local real estate board, if the local board's MLS® rules and regulations so provide. Otherwise, the provisions of the OREA recommended MLS® rules and regulations shall apply to this Commission Trust Agreement. For the purpose of this Commission Trust Agreement, the Commission Trust Amount shall be the amount noted above. The Listing Brokerage hereby declares that all monies received in connection with the trade shall constitute a Commission Trust and shall be held, in trust, for the Co-operating Brokerage under the terms of the applicable MLS® rules and regulations.

SIGNED BY BROKER/SALESPERSON REPRESENTATIVE(S) OF THE BROKERAGE(S) (WHERE APPLICABLE)

Avison Young Commercial Real Estate (Ontario), Brokerage... RE/MAX Aboutowne Realty Corp.

(Name of Listing Brokerage)

905 - 712-2100

(Phone)

905 - 712-2937

(Fax)

Date:

(Authorized to bind the Listing Brokerage)

Benjamin Sykes

(Print Name of Broker/Salesperson Representative of the Brokerage)

(905) 338-9000

(Phone)

(905) 338-3411

(Fax)

Date:

(Authorized to bind the Co-operating/Buyer Brokerage)

Petra McCulloch

(Print Name of Broker/Salesperson Representative of the Brokerage)

CONSENT FOR MULTIPLE REPRESENTATION (To be completed only if the Brokerage represents more than one client for the transaction.)

The Seller / Buyer consent with their initials to their Brokerage representing more than one client for this transaction.

SELLER'S INITIALS

BUYER'S INITIALS

I have received, read, and understand the above information.

ACKNOWLEDGEMENT

Rsm Richter Inc. Solely in its capacity as Court Appointed Receiver of E.M.B. Asset Group Inc.

(Signature of Seller)

Date:

Date:

(Signature of Seller)

Petra McCulloch

(Signature of Buyer)

Date: 7/14/2010

Date: 7/14/2010

(Signature of Buyer)

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