

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) FRIDAY, THE 13th DAY
MR. JUSTICE MYERS) OF OCTOBER, 2017

IN THE MATTER OF THE RECEIVERSHIP OF GENERX (BYWARD HALL) INC.

**AND IN THE MATTER OF AN APPLICATION PURSUANT TO SUBSECTION 243(1)
OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED,
AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. c. 43, AS
AMENDED**

APPROVAL AND VESTING ORDER

THIS MOTION, made by KSV Kofman Inc., in its capacity as Court-appointed receiver (in such capacity, the "**Receiver**"), without security, of certain of the assets, undertaking and property of Generx (Byward Hall) Inc. (formerly known as Textbook (256 Rideau Street) Inc.) (the "**Debtor**") for an order, *inter alia*, approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale between the Receiver, as vendor, and 9840508 Canada Inc. (the "**Purchaser**"), as purchaser, dated September 18, 2017 (the "**Sale Agreement**"), a copy of which is attached as Appendix "E" to the First Report of the Receiver dated October 5, 2017 (the "**First Report**"), and vesting in the Purchaser, or as it may direct in accordance with the Sale Agreement, all the Receiver's and the Debtor's right, title and interest in and to the property described as the

"Purchased Assets" in the Sale Agreement (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report and appendices thereto, and on hearing the submissions of counsel *✓ SRM ARGON176015 ✓* for the Receiver and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Danish Afroz sworn October 6, 2017, filed,

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver 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, or as it may direct.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule "A"** hereto (the "**Receiver's Certificate**"), all the Receiver's and the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement, including without limitation the subject real property identified in **Schedule "B"** hereto (the "**Real Property**"), shall vest absolutely in the Purchaser, or as it may direct, 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, notices of lease, subleases, licences, restrictions, contractual rights, options, judgments, liabilities (direct, indirect, absolute or contingent), obligations, levies, 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 (collectively, the "**Claims**"), including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice Myers dated June 27 2017; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) 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, easements and restrictive covenants listed on **Schedule "D"**) and, for greater certainty, this Court orders and declares that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets and are non-enforceable and non-binding as against the Purchaser.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the appropriate Land Titles Division of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser, or as it may direct, as the owner of the subject real property identified in **Schedule "B"** hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in **Schedule "C"** hereto.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, 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.

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

6. **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 and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor,

the vesting of the Purchased Assets in the Purchaser, or as it may direct, pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, 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.

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order.

All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:
OCT 13 2017



PER / PAR: 

SCHEDULE "A"
FORM OF RECEIVER'S CERTIFICATE

Court File No. CV-17-11832-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF THE RECEIVERSHIP OF GENERX (BYWARD HALL) INC.

AND IN THE MATTER OF AN APPLICATION PURSUANT TO SUBSECTION 243(1)
OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED,
AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. c. 43, AS
AMENDED

RECEIVER'S CERTIFICATE

RECITALS

I. Pursuant to an Order of the Honourable Mr. Justice Myers of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated June 27, 2017, KSV Kofman Inc. was appointed as receiver (in such capacity, the "**Receiver**"), without security, of all the real property registered on title as being owned by Generx (Byward Hall) Inc. (formerly known as Textbook (256 Rideau Street) Inc.) (the "**Debtor**") (collectively, the "**Lands**") and of all the assets, undertakings and properties of the Debtor acquired for or used in relation to the Lands (the "**Property**").

II. Pursuant to an Order of the Court dated October 11, 2017, the Court approved the agreement of purchase and sale between the Receiver, as vendor, and 9840508 Canada Inc. (the "**Purchaser**"), as purchaser, dated September 18, 2017 (the "**Sale Agreement**"), and provided for the vesting in the Purchaser, or as it may direct in accordance with the Sale Agreement, of all the

Receiver's and the Debtor's right, title and interest in and to the Purchased Assets (as defined in the Sale Agreement), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser 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 the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the transaction has been completed to the satisfaction of the Receiver.

III. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER 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;
2. The conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser;
3. The transaction has been completed to the satisfaction of the Receiver; and

4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

KSV KOFMAN INC., in its capacity as court-appointed receiver of all the real property registered on title as being owned by Textbook (256 Rideau Street) Inc. and of all the assets, undertakings and properties of Generx (Byward Hall) Inc. (formerly known as Textbook (256 Rideau Street) Inc.) acquired for or used in relation to such real property, and not in its personal capacity or in any other capacity

Per: _____

Name:

Title:

SCHEDULE "B"
LEGAL DESCRIPTION OF THE REAL PROPERTY

PIN 04210-0004 (LT)

LT 7, PL 6, S OF RIDEAU ST, S/T & T/W CR180805; OTTAWA

PIN 04210-0009 (LT)

211 Besserer Street, Ottawa, Ontario

PCL 7-1, SEC 6; LOT 7, PL 6, PART 1 – 3, 4R-919, N OF BESSERER; OTTAWA

SCHEDULE "C"
INSTRUMENTS TO BE DELETED FROM PIN NOS. 04210-0004 (LT)
AND 04210-0009 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
OC1738362	2015/11/06	Charge	\$5,500,000	Textbook (256 Rideau Street) Inc.	Phoenix Properties Inc.
OC1738363	2015/11/06	Charge	\$2,750,000	Textbook (256 Rideau Street) Inc.	KingSett Mortgage Corporation
OC1738364	2015/11/06	Notice of Assignment of Rents – General	N/A	Textbook (256 Rideau Street) Inc.	KingSett Mortgage Corporation
OC1738365	2015/11/06	Transfer of Charge (re: OC1738362)	N/A	Phoenix Properties Inc.	KingSett Mortgage Corporation
OC1873431	2017/03/10	Construction Lien	\$61,391	Doran Contractors Limited	
OC1885675	2017/05/03	Certificate (re: OC1873431)	N/A	Doran Contractors Limited	
OC1902248	2017/06/28	Application Court Order	N/A	Ontario Superior Court of Justice (Commercial List)	KSV Kofman Inc.
OC1929619	2017/09/14	Charge	\$200,000	Textbook (256 Rideau Street) Inc.	KingSett Mortgage Corporation

INSTRUMENTS TO BE DELETED FROM PIN NO. 04210-0004 (LT) ONLY

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
OC1881452	2017/04/18	Construction Lien	\$845,266	SRM Architects Inc.	
OC1892739	2017/05/31	Certificate (re: OC1881452)	N/A	SRM Architects Inc.	

SCHEDULE "D"
PERMITTED ENCUMBRANCES

Assumed Encumbrances from PIN 04210-0004 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
CR180805					
CR713238	1977/07/27	Agreement	N/A	--	The Corporation of The City of Ottawa

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

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

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